cannot reach agreement on that. Talk about finding common ground. Even with the Ensign amendment that says a father cannot sue, he can still take the daughter across State lines. And the Federal Government can still sue the grandmother or the clergy.

This debate is just beginning. The Senator from Nevada and I are friends, but we will have a tough debate. I hope we will vote for the Democratic amendment to improve this bill.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived and passed, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:37 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD CUSTODY PROTECTION ACT—Continued

AMENDMENT NO. 4689

(Purpose: To authorize grants to carry out programs to provide education on preventing teen pregnancies, and for other purposes)

Mr. LAUTENBERG. Mr. President, I call up amendment No. 4689, which is at the desk, and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. MENENDEZ, and Mrs. CLINTON, proposes an amendment numbered 4689.

(The amendment is printed in the RECORD of Monday, July, 24, 2006, under ''Text of Amendments.'')

Mr. LAUTENBERG. Mr. President, the amendment I am offering gets to the heart of the issue this bill purportedly means to address; that is, reducing the number of abortions. The best way to reduce the number of abortions is to prevent teen pregnancies in the first place. It is that simple.

The amendment I am offering, along with Senators MENENDEZ, CLINTON, SCHUMER, KENNEDY, KERRY, and FEINSTEIN, is aimed at dramatically reducing teen pregnancy rates in the United States. This amendment will assist efforts by nonprofit organizations, schools, and public health agencies to reduce teen pregnancy through awareness, education, and abstinence programs.

The root problem we are talking about today is not abortion, it is teen pregnancy. If we do nothing about teen pregnancy, yet pass this punitive bill, then it proves that this exercise is only a political charade and not a serious effort to combat the problem.

The U.S. teen pregnancy rate is the highest by far among developed countries, and here is some of the evidence we use to prove this.

In Germany, the teen pregnancy rate is 16 per 1,000. The U.S. rate is 84 per 1,000. I ask my colleagues to look at this chart which shows several countries teen pregnancy rates compared with the U.S. This is teen pregnancy rate for ages 15 to 19, among developed countries per 1,000 persons. In Sweden, it is 25 young women per 1,000; in France, it is 20 young women per 1,000; in Canada, 46; in Great Britain, 47; and here we are. Are we the winners in this contest? I hardly think so. We have 84 unintended teenage pregnancies per 1,000 persons.

I mentioned before that Germany has a teen pregnancy rate of 16 per 1,000, and again, I mention the rate in the United States is 84 per 1,000. So it tells us that there is something terribly wrong about the way we do things here.

I look further at Belgium, which has a teen pregnancy rate of 14 per 1,000; the Netherlands, 12 per 1,000; and ours is 84 per 1,000. We cannot continue to ignore facts such as these. We can pass all the abortion restrictions we can think of, but unless there are fewer teen pregnancies, the results will be tragic for thousands of young women.

In many cases, teen pregnancies result in abortion, but that is not the extent of the problem. We know that children of teenage mothers typically have lower birth weight deliveries, are more likely to perform poorly in school, and are at greater risk of abuse and neglect than other children. The sons of teen mothers are 13 percent more likely to end up in prison, while teen daughters are 22 percent more likely to become teen mothers themselves.

Each year in the United States, approximately 860,000 young women become pregnant before they reach the age of 20. Eighty percent of these pregnancies—80 percent of 860,000. That is over 600,000 young women are unintended, and 81 percent of these young women are unmarried.

So what are we doing differently in the United States that is separating us from the rest of the developed world? The answer is simple: the other countries promote full, comprehensive sex education programs, and in the United States—would you believe it—we don't allow funding for comprehensive sex education. I repeat that because some people may think they misheard me. The Federal Government will not fund comprehensive sex education programs despite the fact that 90 percent of parents polled say that in addition to abstinence, sex education should cover contraception and other forms of birth control. But the Federal Government currently will not fund any programs that even mention contraception and restricts all of its funding to abstinence-only programs.

I want to be clear, I am not against abstinence programs. In fact, our amendment will also fund abstinence programs. I think they can be effective at times. But the Federal Government's current policy of restricting funding to abstinence-only programs is producing the wrong result. Just look at how poorly our teenage pregnancy rates compare with other nations.

We need to dedicate our scarce Federal resources toward medically accurate, age-appropriate education that includes information about contraception as well as abstinence. In many cases, particular types of contraception can help avoid sexually transmitted diseases. Isn't that a good objective as well? We have to be realistic about the hope that each and every teenager is going to abstain from premarital sex. Saying ''Don't do it'' may work at times but not all the time.

Look at another problem—youth smoking, for instance. Kids are bombarded with warnings not to smoke. These messages have cut teen smoking rates dramatically, but 1,500 kids a day still start smoking. So it needs intensity of education, comprehensive education.

We remember First Lady Nancy Reagan's ''Just Say No to Drugs'' campaign. It worked for some kids but obviously not for others. For those teenagers who already are sexually active or who do become sexually active, we fail them if we don't teach them about contraception. If we are serious about reducing the number of unintended pregnancies, almost half of which tragically end in abortion—we have to implement programs that work so that our teenagers have the knowledge they need to bring about a positive future for themselves with the opportunity to pursue their dreams. We create a huge number of abortions as a result of the ignorance of what the facts are, about sex and young people.

This year, the Federal Government will direct $176 million of taxpayers' money to abstinence-only programs. Some of these programs can be effective but often don't get the job done because many teenagers need to understand something about contraception and other aspects of a comprehensive sex education program. Research has shown that the most effective programs are the ones that encourage teenagers to delay sexual activity but also provide information on how they can protect themselves. What is more, research shows that teenagers who receive sex education which includes discussion of contraception are more likely to delay sexual activity than those who receive abstinence-only messages.

There was an interesting article in this Saturday's Wall Street Journal about a sex education program in Bamberg County, SC. The article said:

More than a quarter of the families—

In this county—

live below the poverty line. Nearly half have only one parent living at home . . .

If ever there was a place to expect a wave of teen mothers, it would be . . . among the flat farmlands of South Carolina's Allendale and Bamberg Counties. Yet while teen pregnancies are numerous on the Allendale side—

That is the other side of the county line—

adolescent girls on the Bamberg side have one of the lowest pregnancy rates in the State. The county's rate has fallen faster than the rate in most of the U.S.

It is a startling revelation because, again, this is a county where so many people are below the poverty line, where typically teenage pregnancies occur, and in the neighboring county, which is better off, they have a far greater number than does Bamberg County.

Why does that happen? This is an area which has had historically high teen pregnancy rates, but they decided to take bold action to improve their teen pregnancy prevention efforts. Bamberg County initiated a comprehensive sex education program in 1982. Since that time, the county's teen pregnancy rate has fallen by nearly two-thirds. If our objective here is to reduce abortions, then this is one exceptionally effective way to do it.

Adjacent to Bamberg County, as I said, is Allendale County which has similar demographics, but Allendale County has not taken a comprehensive approach. Allendale restricts its programs to abstinence only. What is the result? Allendale County's teen pregnancy rate is more than twice as high as Bamberg's. In 2004, there were 24 pregnancies per 1,000 girls between the ages of 10 and 19 in Bamberg County. In Allendale County, there were 54 pregnancies per 1,000—more than twice the rate.

Abortion is a divisive issue, a tough issue, but we should all be able to agree that the best way or an effective way to reduce the number of abortions is to reduce the number of unwanted pregnancies, especially among unwed teenage girls. And the proven way to reduce the number of teen pregnancies is to provide youth with comprehensive sex education.

When it comes to our children, we should do everything within our power to protect them. We can and we must help America's young people to do better, to make better choices and have brighter futures.

So what we come down today is that this argument is not exclusively about abortion because if that were the case, then we would be giving comprehensive sex education wherever we have a young audience across the country and not saying as a Government: OK, we will give you the money, but you can't talk about an effective way to stop a pregnancy; we will not fund anything that tells you about contraception, about birth control, about thinking about how you plan your family.

We are looking at raw politics here, Mr. President. What we are looking at is a way to compel young people to go through with unwanted pregnancies, and I think the way to stop that is to prevent these pregnancies in the first place.

The way to prevent them is through knowledge.

I urge my colleagues to think this thing through thoroughly so we can effectively control the number of abortions that are done every year in this society and not only think of the punishment we render by jailing people who assist in helping young women get abortions, about penalizing families, about forcing young women who might have been victims of incest to carry on and find subversive, secret ways to end their pregnancies. That is not the way to do it. The way to do it is to present young people with knowledge about how they do not get themselves in a position where they want to consider an abortion.

I hope my colleagues will think this problem through thoroughly as we debate this issue and recognize that the alternative is strictly a punitive one and should not be dictated. I hope they will support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, the Democratic leader and the Republican leader had a unanimous consent agreement on this bill, and during that time—the way the Senate operates—amendments were exchanged and language was handed to each side. We were prepared to debate amendments based on text we were given, and in a highly unusual move, the Senator from New Jersey has brought forward language that is different than what was provided to us in the unanimous consent agreement. At this time, having to go through the amendment to see what all the consequences of those differences are, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, that time will be taken off my colleague's time.

Mr. ENSIGN. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, I have a parliamentary inquiry. I ask that the quorum be suspended so I can make a parliamentary inquiry.

The PRESIDING OFFICER. The Senate is in a quorum call.

Mrs. BOXER. I ask unanimous consent and I would like to make a parliamentary inquiry.

Mr. ENSIGN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Nevada for getting through the process. It is not unusual for Senators to be permitted to modify their amendments. However, at this point I yield up to 15 minutes to my colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I thank my distinguished senior Senator from New Jersey for yielding time and for his leadership on this issue.

I rise in opposition to the Child Custody Protection Act in support of a real solution to the problem of teen pregnancy. I don't support the legislation because it is nothing more than a misguided election-year ploy based on a false premise.

Instead of punishment, we should be focused on prevention. Instead of putting people in jail, we should be preventing teens from getting pregnant in the first place. That is why I am joining my fellow Senator from New Jersey in offering a comprehensive approach to prevent teen pregnancy. Our amendment will help prepare young people with the knowledge and skills to make responsible decisions and offer them an opportunity to succeed in life.

In a Senate filled with many different views on the right path for our country, it is refreshing to recognize we can all agree that we need to reduce the number of teenage abortions. But there is still disagreement about how to achieve that goal.

Many in this Senate believe the answer is to criminalize caring adults and threaten innocent youth. I cannot disagree more. The solution to this problem does not lie in the courtroom but rather in our classrooms and after-school programs.

Don't take my word for It. Look at this past weekend's Wall Street Journal—not a bastion of liberalism. In an article ''Winning the Battle on Teen Pregnancy'' the Wall Street Journal examines a comprehensive sex education program in rural South Carolina and compares two similar neighboring counties. One has a very intensive, comprehensive sex education program, the other does not.

The findings show that between 1982 when the Teen Life Center Program began and 2004, the county's estimated pregnancy rate among girls age 15 to 19 fell by nearly two-thirds, making its teen pregnancy rate among the lowest in the State. By contrast, the neighboring counties, which did not have such a program, had one of the highest teen pregnancy rates in the State, about 2½ times their neighbor's rate.

The article cites Douglas Kirby, a sex education expert:

The Teen Life Center has played a major role over the years in reducing teen pregnancy in the community it serves.

Also:

I do think it's one of the most promising approaches.

He notes the program devotes an unusual amount of time in the regular school curriculum to comprehensive sex education. As this case study shows, we clearly need to be putting more resources into preventing teen pregnancy, not punishing pregnant teens.

Rather than invest in proven programs such as the Teen Life Center, the Bush administration continues to insist on a narrow-minded, misguided approach of abstinence-only education. As this chart demonstrates, abstinence only simply does not cut it. The Bush administration invested almost $600 million for abstinence-only education between 2001 and 2005. Not only did we not see a reduction in the number of teens having sex, we actually saw a slight increase. What a rate of return. With a rate of return like that, any reasonable investor would have already fired their investment adviser long ago. The American taxpayers deserve a better rate of return on their investment, particularly one that is so critical on this subject.

The amendment Senator LAUTENBERG and I are offering takes a comprehensive approach to preventing teen pregnancy by providing medically and scientifically accurate sex education programs and funding important afterschool programs—such as 21st Century Community Learning Centers, Trio, and GEAR UP, and the Carol White Physical Education Program—that build life skills, put teens on a path to college, and ultimately help open the door of opportunity for young people. And our amendment also includes a demonstration program to encourage new approaches to reducing teen pregnancy.

It is time to do something more than criminalize grandmothers, trusted confidants, and clergy. It is time we do something to actually reduce the number of teen abortions. But, once again, the administration and this Congress have demonstrated their misplaced priorities by bringing this bill to the floor instead of meaningful legislation to prevent teen pregnancy.

Instead of debating comprehensive sex education, which is supported overwhelmingly by 94 percent of parents in our country, the Bush administration has continued to pursue its unproven abstinence-only programs, which have the support of only about 15 percent of parents. And instead of working in a bipartisan manner to prevent teen pregnancy, the Senate leadership is continuing to pursue their misguided proposal to limit the options for young women.

When the New Jersey Supreme Court struck down a law that would have required parental notification, they considered the effect that notification laws have had on other States. Their conclusion was the same as mine, and I quote:

[A] law mandating parental notification prior to an abortion can neither mend nor create lines of communication between parent and child.

For example, in Texas, a pregnant 16-year-old explained why she could not tell her mother she was pregnant. She said:

My oldest sister got pregnant when she was 17. My mother pushed her against the wall, slapped her across the face and then grabbed her by the hair, pulled her through the living room, out the front door and threw her off the porch. We don't know where she is now.

Furthermore, the underlying bill does nothing to protect a young woman whose father rapes her. Despite such a despicable violation, he would still be allowed to make parental decisions on her behalf. Instead of punishing him, we would punish grandmothers or clergy who actually have to try to protect her from such an abusive relationship.

Now, these are horrible situations, but they are real life situations, and by forcing a minor to ask an abusive, violent parent for permission, we are only adding to the abuse.

Now, as a father of a beautiful and bright daughter and fabulous son, I would hope that my children would feel comfortable talking to me about their serious life decisions. And because I am blessed to have a great, open relationship with my children, I believe they would be comfortable bringing these issues to me. Unfortunately, our Government cannot legislate positive family relationships in every home, and not all families function like yours or mine. Sadly, not every parent can be their daughter's best advocate.

Further, the New York Times analyzed six States that recently passed parental consent laws and discovered that these laws have done little to reduce the number of teen pregnancies or the number of abortions.

As a matter of fact, look at this chart. You can see that the United States has the highest rate of teen pregnancy among all westernized developed countries. Despite what you hear from the Bush administration and some of my colleagues on the other side of the aisle, abstinence-only programs and restrictions on a woman's right to choose are not the way to solve this problem. Clearly, we need a different direction.

Our amendment offers a real, proven solution to this problem—not just a hallowed, base-building effort. We need to make sure we are standing up first and foremost for the health and safety of our children. The time has come to reduce the number of teen pregnancies, and thus teen abortions, in this country, and our commonsense amendment will do just that.

We need to invest in our school, community, and faith-based organizations so they can teach scientifically and medically accurate family life education. We need programs that encourage teens to abstain from sexual activity. We need to educate young men and women about the responsibilities and challenges associated with parenting. We need to encourage parents to communicate with their teens about sex. We need to teach young people how to make responsible decisions. And we need to fund afterschool programs that will enrich their education and replace unsupervised hours that can lead to destructive behavior with constructive activities and positive role models.

We know afterschool programs reduce risky adolescent behavior. Teenage girls who play sports, for instance, are more likely to wait to become sexually active, which means they are less likely to become pregnant.

We know teen pregnancy has serious consequences for young women, their children, and communities as a whole. Too-early childbearing increases the likelihood that a young woman will drop out of high school and that she and her child will live in poverty.

Unfortunately, this administration has done nothing to support these initiatives that reduce the number of teen pregnancies. Instead, the administration has brought a politically charged debate to the floor in the name of politics, while the real solutions for our teenagers are being ignored.

Instead of preparing future generations with the important information they need to make responsible decisions, this administration keeps young people in the dark about medically and scientifically accurate sex information.

Instead of funding important afterschool programs that will build life skills and put teens on the road to college, this administration is shutting the door of opportunity on young people.

Instead of breaking the cycle of daughters of teen moms becoming teen moms themselves, this administration has made it harder for young mothers to go back to school and raise their children.

Instead of ending the trend of sons of teen moms ending up in prison, this administration has increased the number of unsupervised hours and decreased the number of positive activities and role models in a teen's day.

Let's join together to recommit ourselves to continuing to decrease the incidence of teen pregnancy and recommit ourselves to offering family life education and positive afterschool programs that will foster responsible young adults and responsible decisions.

The time is now to invest in our teens. As all parents know, we place overwhelming pressure on ourselves to make sure we raise our children well. The decisions we make—and they make—will affect them for the rest of their lives. We cannot afford to let the doors close on them. Instead, we must continue to open that door of opportunity.

I urge my colleagues to join us in supporting this important amendment. We have an obligation to stand up and do the right thing. It is time to stop talking about putting people in jail,

and time to start creating real opportunities for future generations. This amendment does that.

With that, Mr. President, I yield back the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, one of the principal obligations of government should be to enable families to grow and prosper and bring new life into the world. Our policies and our actions should be aimed at helping all families thrive in this great land of opportunity. Surely, we can agree that Congress should do all it can to help young women make choices that will help them be part of such thriving families.

In this land that cherishes individual rights and liberties, a woman has the constitutional right to make her own reproductive decisions, and I support that right. But abortion should be rare, as well as safe and legal. For that reason, being pro-choice also means helping women choose whether to become pregnant and providing them with support so they can make choices about their pregnancy that are not determined by their inability to afford or care for a child.

Congress and the administration can take a number of constructive steps to enhance choice and help to reduce the number of abortions. Unfortunately, time and time again, this Republican Congress and this Republican administration have turned their backs on women who need our help.

If Congress were serious about reducing abortions, we would be expanding family planning. But the administration and the Republican Congress have refused to increase funding for these important programs.

A serious effort to create a true culture of life would also include providing additional options to teenagers who become pregnant, such as by supporting adoption and foster care. But last year this Congress limited the number of children eligible for foster care and reduced assistance to States for their foster care systems.

Another way to reduce abortions is to promise a pregnant teenager that she and her child can rely upon some basic minimum of health care. For a third of all mothers and babies in America, that means Medicaid. Medicaid also provides the prenatal and pediatric care that children need to be healthy. But earlier this year, the administration proposed $13.5 billion in budget cuts to Medicaid.

A further source of help to young women who are pregnant is through the maternal and child health services block grant, which serves 27 million women and children. Here, too, an administration that calls itself pro-life should be doing all it can to provide services to infants. But the President's budget proposes only $693 million for a program that was funded at $730 million just 3 years ago.

If the administration wanted to reduce abortions, it would promise women that their infants will not go hungry. But President Bush has proposed cuts to the WIC Program that would reduce services across the program and cut out of the program entirely as many as 850,000 mothers and children.

Abortions would be rarer if young mothers could depend upon childcare. This Congress has underfunded childcare by $10.9 billion. The result is that 600,000 fewer children will have their childcare subsidized.

In short, there are many constructive steps that Congress could take today to reduce teenage pregnancy and promote a true culture of life. Instead, the Republican leadership has decided to play politics with the health of young women. The bill we are debating today does nothing to stand by young women in their time of need. It does nothing to prevent unwanted pregnancies. It does nothing to reduce abortions by letting women know that their infant will be fed, have good health care, and be cared for. It does not even prevent minors from crossing State lines to obtain an abortion. Instead, it threatens prison time to anyone who helps them to do so, even if the person providing assistance is a compassionate grandparent or aunt or uncle or even a member of the clergy.

Congress ought to have higher priorities than turning grandparents into criminals. I believe parental involvement is extremely important to teenagers' lives, and never more so than when a minor must make an extraordinarily difficult decision. But the Federal Criminal Code is not the right tool to improve communication and trust between parents and their daughters.

Constructive steps that would actually work to make abortion rare are contained in the Menendez-Lautenberg amendment on teenage pregnancy prevention. It calls for comprehensive sex education, not misleading abstinence-only programs. It increases the authorization for afterschool programs that encourage academic achievement, such as Trio, GEAR UP, and 21st Century Community Learning Centers that help keep teenage girls out of trouble. It increases funding for the Carol White Program, which encourages young women to become involved in sports, since we know that young women who participate in sports are far less likely to become pregnant.

Why aren't we spending our time helping young women succeed instead of denying them help in their time of need? The answer is that real solutions would unite us at a time when Republicans want to divide us.

I urge all of those who want to make abortion rare to rethink our shopworn slogans and pat answers. The way to foster a culture of life is not through a culture of war.

The PRESIDING OFFICER (Mr. COLEMAN). Who yields time?

The Senator from Nevada.

Mr. ENSIGN. Mr. President, we all agree that teenage pregnancy is a problem in the United States. And there are various views on the best way to deal with teenage pregnancy and how to prevent it and lower the rate of teenage pregnancies.

The Lautenberg-Menendez amendment is an attempt to do that. I think it is a misguided attempt. Let me point out some of the problems that I think are present in this amendment. Let's talk a little bit about what the amendment does.

First, sex education decisions have long been left to parents and local communities. When communities offer sex education programs in public schools, parents are typically heavily involved in deciding the scope of that education. Parental and local control of this issue is appropriate because the issues involved are uniquely related to parents' cultural, religious and moral values, and attitudes, as well as those of the community. The Menendez-Lautenberg amendment would send $100 million into localities in an effort to override the parents' and local community's decisions about how to raise their children. It is a prescriptive amendment about how these programs are to be set up.

These grants would require recipients to conduct sex education programs and would prohibit the recipients from providing abstinence-only education. All recipients of grant moneys would be required to teach children about all contraceptives, including condoms, the pill, and plan B emergency contraceptives. The amendment also reauthorizes and increases appropriations for a variety of other programs. I will talk about that in a moment.

Under this amendment, none of the authorized moneys would be available for programs focusing on abstinence only or for programs that refuse to discuss controversial contraceptives such as plan B, which many Americans view as an abortion pill.

There is a program out there called Best Friends. Under this program, teenagers are 6½ times less likely to have sex than their counterparts, about two times less likely to drink alcohol than their peers, eight times less likely to use drugs, more than two times less likely to smoke. Under this amendment, Best Friends would not qualify for grant monies available through this amendment.

While the authors of this amendment have offered it in good faith it is misguided.

Dr. COBURN and I got to know each other very well, when we served in the House together. He has been out there on the front lines, actually delivering babies. He talks to a lot of young girls and boys about their involvement or lack of involvement in sexual activities when they are young.

I yield Senator COBURN 10 minutes to speak on the bill and this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, this is a philosophical debate. There are two questions we ought to ask ourselves: How many people think it is in the best interests of our young people to be sexually active outside of marriage? Is there anything positive that ever comes from that? Is there positive self-esteem? Is there disease? Are there consequences to the fact that when our young people make a decision to become sexually active, almost always there is a negative downside?

Everybody in this body desires the best for our children. We desire the best for one another's children. We desire the best for every child. I have delivered over 4,000 babies. Most of those were Medicaid or teenage moms. I have been doing that for 23 years. I know the attitudes. I know what is going on. I can see.

I have also seen every complication that can come about when we take the parents out of the loop, when we rationalize, well, if the parents aren't going to do it, the Government is going to do it for them. What we do is divide. We make division between children and parents. We do something out in the dark.

I will never forget, I was in Stigler, OK, a small community. A farmer comes in there crying, with a bag in his hand. This was when I was a Congressman. He said: Congressman, how did this happen? My 13-year-old last night came home from the health department. She went with a friend. She came home from the health department with contraceptives and condoms, oral contraceptives and condoms. He said: How is it that I can pay my taxes and I am undermined by the local health department in what my child gets? She wasn't even going for her as an appointment. But she is sold on the fact that she needs to do this. She had good enough training that she came to her parents with that and said: Here is what happened to me.

The point is, as a practicing physician, I use every tool I can with young women to make sure they are well informed. But there is a tipping point about what the best medical advice is. This is debatable. But I would tell you the best medical advice we could give our young men and women, the best absolute medical advice is to stay abstinent until you are in a married relationship. Everybody in this body probably agrees with that.

If that is true, if risk avoidance is the best message, why do we turn around and give 1200 percent more money to risk reduction than we do risk avoidance? For every dollar we spend on abstinence education, we spend $12 on teaching people how to lower the risk. What is the message we are sending with that? We are going to spend $600 million this year on what this amendment does already. That is what we are going to spend. If you add up everything associated with this amendment, we are going to spend another $600 million. First, where are we going to get the money? We don't have it so we are going to borrow it from the very children we say we want to protect to do this.

No. 2, we are winning the war in this country on teenage pregnancy. We are winning the war. We have the highest level of virgin 16-year-olds we have had in 30 years in this country, both men and women, both girls and boys. I don't know if 1200 percent more of that is because we have comprehensive sex education or whether 100 percent of it is because of abstinence. I don't know that. But what I do know is, I am not going to vote for anything that destroys relationships as I have seen in my practice for young women for years.

Does that mean somebody who can't get available maternal child health should be denied it? No. Does that mean somebody who seeks out the right guidance should be denied it? No. This isn't a debate about not doing what we are already doing. We are already doing it. The question is, should we do more? Should we penalize the best medical advice that is out there, which is to abstain? The consequences of that would be disastrous.

The moral rationalization is if you make a mistake, there are no consequences. I have seen the consequences. Condoms on teenagers work about 50 percent of the time, if you add up all the studies. The STD rate for teenagers, even when used perfectly, for human papilloma virus is still 38 percent, the No. 1 cause of cervical cancer. We can rationalize our moral principle away or we can say: Here is where we should go. We are not talking about changing anything.

The President was widely attacked that he hadn't increased moneys for all this. We don't have money to increase anything in this country. We are fighting a war. We have had Katrina. We are running a $350 billion deficit. We don't have money. So if we are going to do this, what program are we going to cut? Or are we going to offer another $600 million? By the way, the title X program hasn't been authorized in 16 years and we are still appropriating moneys.

There is a difference in philosophy. It doesn't mean I am right or wrong. It doesn't mean those who oppose me are wrong or right. But what I have seen from experience is when we honor virtue, when we mentor integrity, when we encourage the right choices, what we get is right choices, honor, and integrity. When we rationalize the consequences of violating principles that are for a healthy productive life, we get a consumption of errors.

I have so many stories I would love for this body and the American people to know about the people I have cared for, the consequences of when we rationalize a moral principle of being pure until you are in a married relationship. Is that prudish? Does it happen? It happens a lot more than we give credit for.

The question we ought to ask ourselves is, would it happen more if we set the example, if we didn't glorify the other position, if we didn't rationalize the position?

I am opposed to the amendment on three grounds. One, we are already spending a ton of money on comprehensive sex education. I am not opposed to that. I teach condoms. I teach barrier methods. I also teach the consequences and the failure rates. I teach the consequences of oral contraceptives. We only have about 10 kids a year die in this country because they are given birth control pills that the parent didn't even know about and they have a thromboembolic event because there is a family history that was never related. So it is OK to sacrifice those 10 young girls because we didn't want their parents, who could have made a decision, to know. We could have done that, but we are not going to do that. We are going to rationalize the behavior of something that is not as good for our children, that is not the best medical advice, and we are going to sacrifice those lives. I am going to oppose it because we are already doing it, No. 1.

No. 2, we already have a markedly distorted ratio against the best medical advice on which we all agree, the best thing our kids could do is not be sexually active outside of a monogamous, long-term relationship. We all agree to that. There is not anybody who disagrees with that.

And finally, why is it here? Why is it on this bill? It is because we don't want this bill. Some of us don't want this bill to pass.

I will relate to you a story about a gal. I will call her Julie because I can't mention her name. Julie is dead. Julie was 16 years of age. Her parents didn't know she had a termination to her pregnancy. When I saw her in the ER at 2 o'clock in the morning, she had a fever and a little bit of bleeding. She had a botched abortion with an infection developed, what is called disseminated intravascular coagulation. And basically 3 days later, despite all the heroic events, she died. Why did she die? She died because we separated the choices that she made from her parents without their involvement. Would she have died if somebody had cared to know what her immediate post-op followup condition was? No. Had she had intervention earlier, would she have died? No. Her parents will never get over the fact that they weren't there. They blame themselves.

I oppose this amendment and hope other Members will do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 8 minutes to my colleague from New York State.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I have great deal of respect for the experience of my colleague from Oklahoma. I believe he has served his patients in a conscientious, caring manner for all those 20-plus years he has been practicing medicine as an OB/GYN. He comes to the floor with his own experience. It is entitled to great weight because it is his experience. He has very passionately set forth his strong beliefs. I come from a different perspective. I have been a lawyer for a number of years. I was a law professor running a legal aid clinic at the University of Arkansas in Fayetteville not far from the Oklahoma border when one day in my office I got a call from one of the local judges telling me he had assigned me to a case. That was pretty common.

I said: Judge, what kind of case is it?

He said: Well, I want you to represent this man who has been accused of raping a 12-year-old girl he is related to.

I said: Judge, I don't really want to do that.

He said: Professor, you are going to do it because I am signing the order right now.

So I did. I got into the details of this sordid crime and how this man who was related to this family had abused this child. And the family, to be charitable, wasn't really all that attentive or caring. They were people of very modest means. They lived a pretty disorganized life, and they didn't watch out for their children. There wasn't what we would call the kind of relationship and dialog and discussion that every one of us wants to have with our own children and would hope to nurture in others.

So I did my duty and I represented this man. But I often wondered about that little 12-year-old girl. About a year later, my phone rings again. This time, it is the prosecuting attorney. He said: Well, Professor, we have another case for you.

I said: I have done my part.

He said: We need you. We want you to represent a father who is accused of impregnating both of his daughters. The older daughter has had her baby and she is about 14. The younger daughter is now pregnant. The older daughter has come to us and said that it was the father, and she is desperate for us to take her younger sister away from this environment.

I said: You know, Mr. Prosecutor, find somebody else to do this.

He said: Well, you did such a good job in that bad case last year, we just need you to do this.

I said: I really don't want to do it.

He said: Well, I am having the judge sign the order.

I got deeply into the family dynamics of this perverse, incestuous family. I met the 14-year-old who already had a baby, and I met the 12-year-old who was now pregnant with her father's baby. And my heart just broke. Who was that child supposed to talk to? Where was that child supposed to go? The sister was trying to help her younger sister. If she had a driver's license, she might have driven her to where she could have gotten medical care.

A couple years later, I was practicing law in Little Rock, and Arkansas had a parental consent law with a judicial bypass. People were called by judges whenever this occurred and were asked to come and represent the young girl who was appearing before the court. I got called one day, as I was on the list as a practicing lawyer. So I went and met my client, a 15-year-old girl. She had been raped by her mother's boyfriend and was pregnant. Her mother could have cared less. Maybe her mother should have cared. Lord knows, I wish she had cared. But she didn't want to disrupt the relationship with the boyfriend. So the girl needed to come to court and get a judge to give her permission because there was no parent. There may have been a biological parent, but there wasn't a parent in any sense of the word other than biology.

By that time, I had my own daughter and I thought, what a tragedy. You know, life isn't always the way we wish it would be. Sometimes tragedies happen and sometimes families are not just negligent but abusive. Sometimes young girls are taken advantage of by members of their family, people in whom they should be able to trust.

So I just have to say that when we talk about experience, we can all bring experience to the floor of the Senate. We can talk about the many instances where things worked out, parents did do the right thing; they gave their children the right values, gave them the appropriate education to know how to take care of themselves, to respect themselves. But I have lived long enough to know that is not everybody. I wish it were. But in the meantime, we are going to sacrifice a lot of girls' lives. I think that is unfortunate, to say the least.

We now know, because we have research to prove it, what works. We know that in South Carolina—for example, in a Wall Street Journal article recently was a story about small, impoverished towns that had a high rate of teenage pregnancy, and they decided they wanted to do something and they got help. They had one-on-one coaching sessions for parents who would come and participate. They preached abstinence, but they also taught about contraception and they made it clear what they wanted their children to do, how they expected them to behave to try to prevent irresponsible sexual activity and pregnancy. They tried to make both the young women and the young men accept responsibility for their actions.

I know, too, in my State, we have a lot of grandmothers and aunts who are raising children. The Child Custody Protection Act would put any family member—a sister, aunt, or grandmother—in jail for helping a teenager deal with one of the most difficult decisions that any person has to make. I don't believe that these young women should make those decisions alone. Certainly, we are complicating the lives of everyone instead of doing our duty as parents, as family members, and as leaders, which is to inculcate and pass on values but to recognize that reality is messy. I have championed kinship care, and I know how many grandparents are raising children, and I know from my own personal experience how many older relatives who are faced with very difficult situations would be criminalized if they tried to reach out and help a young girl who asked them for that kind of assistance.

The Child Custody Protection Act, while seeking to criminalize what a teenager does once she is pregnant, fails to address the issue of teen pregnancy in this country, the root of the problem.

To address only how teenagers should behave once they become pregnant without any resources on the front end to prevent a pregnancy is shortsighted, to say the least.

One of the most important initiatives I worked on as First Lady and am proud to continue to champion in the Senate is the prevention of teen pregnancy.

In 1996, we worked with the National Campaign To Prevent Teen Pregnancy to set a goal to reduce teen pregnancy by one-third within a decade, and I am proud to say that we met that goal.

But we did not do it overnight. We invested over a period of time. We invested in different programs and initiatives, recognizing that this issue could not be solved with a one size fits all approach. And according to the National Campaign To Prevent Teen Pregnancy, between 1991 and 2004, the teen birth rate fell 33 percent to a record low for those aged 15 to 19.

And while we are all pleased that the teen pregnancy rate has dropped since 1991—as I am that in my home State of New York, it's come down a full 10 percent—we also recognize that this is just a drop in bucket if we are truly going to get to the root of the problem and eliminate pregnancy among girls and boys who are far too often too young and unprepared, emotionally and financially, to be mothers and fathers.

Sadly, even with this decrease, the United States continues to have the highest rate of teen pregnancy and births in the Western industrialized world.

Today, 34 percent of young women become pregnant at least once before they reach the age of 20, and that results in about 820,000 teen pregnancies a year. Eight in ten of these pregnancies are unintended.

We also have an overwhelming body of evidence about the repercussions of teen parenting. Children born to teen moms begin life with the odds against them; they are more likely to be born

a low birth weight baby, which is connected to a host of long-term health problems.

They are 50 percent more likely to repeat a grade and significantly more likely to be victims of abuse and neglect.

In addition, girls who give birth as teenagers face a long, uphill battle to economic self-sufficiency and self-esteem, with only 32 percent of teenage mothers who begin their families before age 18 ever completing high school.

For all these reasons, I urge my colleagues to support the Lautenberg-Menendez amendment that seeks to increase funding to critical programs that are helping to decrease teen pregnancy in our country.

Last week, CNN highlighted in a story what research has consistently shown: Teenagers who receive comprehensive sex education that includes discussion of contraception are more likely than those who receive abstinence-only messages to delay sexual activity and to use contraceptives when they do become sexually active.

And this past Saturday, a Wall Street Journal article featured how small, impoverished towns in South Carolina are showing the lowest teen pregnancy rates in the country. Both places owe their success to comprehensive sex education. From one-on-one coaching sessions for parents and teens to teaching about contraception, the towns are proactive in making kids more aware of the dangers that are out there if they don't practice safe sex.

This further reinforces the need to implement policies that support and educate young women about all of the facts, so that they do not become pregnant in the first place.

Teenagers need to be educated that abstinence is the best defense against an unwanted pregnancy, and they also need to be educated and encouraged to exercise cautious decisions about sex.

We should not have a cookie cutter approach to preventing teen pregnancy. In instances where young people are sexually active and are likely to remain so, we need to ensure that they are encouraged to use contraception consistently and carefully.

As policymakers, we need to recognize what works and what doesn't work, and to be fair, the jury is still out on the effectiveness of abstinence-only programs. I don't think this debate should be about ideology. It should be about facts and evidence. We have to deal with the choices young people make, not just the choice we wish they would make. We should use all the resources at our disposal to ensure that teens are getting the information they need to make the right decision and that we remain a part of the solution by supporting programs and policies that deal with all the layers of this issue, not just a one size fits all approach.

Sadly, instead of putting resources into this important fight to prevent teen pregnancy, we are adding more penalties for those who try to help teens during their time of crisis.

The Child Custody Protection Act would put any family member—a sister, aunt, grandmother—in jail for helping a teen cross State lines to obtain an abortion.

I don't believe that any young woman should have to make this decision alone. Research actually shows that in most cases, young women already involve one or both parents when faced with an unintended pregnancy, without being required to do so by law. But, tragically, not every family is perfect. There are some instances in which a young woman simply cannot involve her parents, including rape, violence or incest; and for some in this body to pretend that those instances should not be considered in this debate is unconscionable. The Child Custody Protection Act glosses over these complicated situations, making criminals out of grandparents, clergy and other adults who try to act in good faith.

Instead of criminalizing other caring adults in a teenager's life, we should do more to educate and involve parents about the critical role they can play in encouraging their children to abstain from sexual activity. Teenagers who have strong emotional attachments to their parents are much less likely to become sexually active at an early age.

I am disappointed that this bill does not provide any exemptions for adult relatives or clergy who seek to provide guidance and support to young women seeking abortions.

In the Senate, I have championed the Kinship Care Act which supports the many family members in New York and in America who are raising children who would otherwise be in the foster care system.

The reality is, not every child is fortunate enough to be raised by their biological parents. Nationwide, more than six million children—1 in 12 children—are living in households headed by grandparents. In New York City alone, there are over 245,000 adolescents already living in grandparent households.

It's important to note that for many families, but these families in particular, the legal guardian who has physical custody and who provides a young woman with support and guidance are not one in the same.

This bill fails to acknowledge the importance of close family members such as grandmothers and aunts, who often raise their relatives or play a significant role in their lives.

In doing so, this bill creates a strong incentive for young women to seek risky alternatives she wouldn't have considered if permitted to seek counsel from her family and community. Major medical and public-health organizations, including the American Medical Association, the American Academy of Pediatrics and the American Public Health Association oppose governmental parental-involvement laws because of the risk to women's health.

While we all hope that young women will involve their parents in these decisions, mandating parental consent has the serious potential to do more harm than good. In fact, during congressional testimony, Dr. Warren Seigel, an expert in adolescent medicine, stated that legislation mandating parental involvement ''represents bad medicine and places politics before the health of our youth.''

The Child Custody Protection Act is a reflection of the misdirected priorities out there when it comes to truly doing something about unintended pregnancy. Rather than criminalizing family members and clergy who are trying to provide guidance to these young women in crisis, we should be working to reduce the rate of teen pregnancy in this country. There are far better ways to prevent pregnancy than putting people in jail. We could start by supporting family planning services and making sure we're providing medically accurate information in sex education classes that includes contraception.

That is why my good friend HARRY REID and I have long championed the Prevention First Act here in the Senate which, among other important measures, ensures that Government-funded sex education programs provide medically accurate information about contraception.

And that is also why I rise today to encourage all of my colleagues to support the Lautenberg-Menendez amendment because we need policies that support and educate our young women about the importance of prevention now more than ever.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, just a quick response to our colleague and friend from Oklahoma. The fact is, there are certainly different views than this well-trained physician offered on the floor of the Senate. Parents all across the country—some 90 percent of the parents of high school students—insist that they would prefer to have comprehensive sex education available for their children.

The fact that this country of ours doesn't permit anything except abstinence only until marriage to be taught is outrageous. Where is the fairness? Where is the equity?

In New Jersey, we have a different view about people's choice than they do in Oklahoma. That doesn't mean that Oklahoma is totally wrong or that New Jersey is totally right. But the fact is, it is not sinful conduct and we ought to encourage people to give the young women a full understanding about sex education so they know there are alternatives to exposing themselves to an unwanted pregnancy.

It is outrageous that we want to close down the minds and opportunities for people to make a choice about what they do with their health and with their families.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I would like to make a few very brief remarks in relation to this particular amendment. There is one term used in this amendment that is of particular concern. The proponents say that they want a ''teen-driven'' approach to sex education. This is one of the things they want to encourage. I don't know about what kind of teenagers the rest of my colleagues were when they were teenagers, but when I was a teenager and if such a program was driven by me, that type of sex education program would look a lot different than one that would be driven by me as an adult and as a parent. I think focusing such a program in a manner that is ''teen-driven'' is just asking for problems, as far as what kind of mindset we want our sex education programs to contain. It is a minor example of a problem that is in this particular amendment.

Mr. President, because we don't know how much debate we are going to have on the underlying bill, I will talk for a couple minutes about the bill itself. First, I want to respond to something Senator CLINTON said when she spoke of the two sisters who were both raped by their father. That is a horrible, unimaginable situation. I applaud Senator CLINTON for her efforts in that family situation. The Senator talked about the older sister who wanted to help the younger sister because the older sister, had herself, been impregnated. Senator CLINTON had said the older sister would have gotten in trouble if she would have gone across State lines to help her younger sister obtain an abortion.

What Senator CLINTON pointed out is the exact purpose of this bill. The older sister had to get the judiciary involved to remove her sister from the abusive situation. Guess what. If the older sister would have taken her sister across State lines for an abortion, the legal authorities never would have been involved to take the child out of the abusive situation, and the younger sister would have been returned to an unsafe home where she would have been subjected to continued sexual abuse.

That is the whole point of this legislation, Mr. President. The judicial bypass for parental consent or notification that is required in most States is the only instances in which this bill actually applies. So the bill, I believe, would be consistent with what I understand that Senator CLINTON wanted for this girl: to get her out of an abusive situation.

Mr. President, will the Chair remind me when I have 5 minutes remaining?

The PRESIDING OFFICER. Yes.

Mr. ENSIGN. Mr. President, incest is a terrible act, a terrible crime. We should not be protecting the people who perpetrate these crimes. But at the same time, if there is incest involved we, as a society, must take steps to protect the young victims. Imagine a young girl who has had this terrible act committed against her and now somebody else with good intentions wants to take her across State lines to get an abortion. There are several problems raised by this scenario. If the judiciary can be involved, at least some of these crimes can be addressed. But if the crime remains secret from the parents and there is no judiciary involved, this girl will be forced to just goes back home, with the abortion hidden, to face continued victimization. The second concern that I have relates to the potential medical consequences that a young girl might face following an abortion. She might encounter a postsurgical infection, or complications if the abortion is performed with inaccurate or an incomplete medical history of the young girl, like administering some kind of medication or anesthesia to which the girl has an allergy. The young girls parents may not know to watch for postsurgical complications. Each of these medical concerns become life threatening when friends or a member of the clergy are involved rather than the young girl's parents or the authorities.

That is why I think some of the amendments coming up are ill-conceived and why this bill is so important to enact. I hope that as this debate goes forward we can bring out more of these points. I know the leaders are trying to work out differences right now.

I yield whatever time is remaining on this amendment to the Senator from South Carolina, Mr. DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I come to the floor today proud that Republicans are working to build a future of hope, by securing our homeland, securing our prosperity, and securing our values.

I believe today's debate over the Child Custody Protection Act cuts to the heart of who we are as a people. The ideas this bill is built on—preserving life, protecting our children, and upholding the rule of law—have defined the American character and shaped our society for over 200 years. Our commitment to protecting the most vulnerable among us is the surest test of our shared values and the key to our hope for a better future for our children and grandchildren.

There are very few who would disagree that the teenage years are a vulnerable and formative time of life. Peer pressure and the anxiety it can bring are sometimes overwhelming. From decisions about where to attend college, or to understand the negative impacts of things like drug and alcohol abuse, parental communication and support are vitally important as these young people make these decisions that will determine the course of the rest of their lives. Parents need to be involved. So it puzzles me that those who oppose this bill would essentially give a green light to those who would circumvent State laws and rob parents of the chance to give their young daughters the physical care and the psychological support they so desperately need.

Those who oppose this legislation claim that it would endanger teens facing truly abusive parents. So they want to strip the overwhelming majority of good parents of their rightful role and responsibility because of the misbehavior of a few.

Let's be clear: No one wants to place these vulnerable girls, many of whom have already been victimized by older men, into a situation that creates more fear than they are already experiencing. That is why States have built careful safeguards into their laws to provide recourse to those who have genuine reasons to fear an abusive parent.

I can imagine that the thought of facing any parent, no matter how loving, with the news of an unplanned pregnancy is a scary thing. But as a father of two daughters, I believe I speak for most parents in saying that the health and well-being of my girls is more precious to me than anything else in the world. Much worse than hearing of a pregnancy would be the news that a daughter was suffering from infertility or any of the other severe medical and emotional complications often associated with abortion—complications that, in many cases, might not be caught until it was too late if the parent was unaware of the procedure.

Other critics argue that this bill would add complicated consent regulations or that it would somehow be unconstitutional. Nothing could be further from the truth. This legislation does nothing to override existing State laws or enforce any kind of Federal mandate on States. It simply strengthens the idea that the will of the people of each State, as expressed by their elected State officials, should not be circumvented for major surgical procedures that have such profound moral and medical implications. Furthermore, this bill is designed to uphold only those State laws which have been drafted carefully enough to pass constitutional muster.

I am disappointed that this legislation has only attracted one Democratic cosponsor, but I am hopeful that my Democratic colleagues will not cave to pressure from the well-funded, profit-driven abortion industry, which includes Planned Parenthood and its lobbyist allies at Emily's List and NARAL. While they may provide significant sources of campaign funds, no amount of money can justify their ''abortion at any cost'' mentality, especially when that cost is the health and well-being of teenage girls and the rights of parents who most want to protect them.

An overwhelming majority of Americans understands that taking a minor across State lines to obtain an abortion without her parents' knowledge is

not consistent with our shared values. The Child Custody Protection Act is a well-crafted, balanced piece of legislation, and I urge my colleagues on both sides of the aisle to join the American people in supporting it. It is an important step toward protecting our families, securing our values, and building hope for a better future for all Americans.

Mr. President, I reserve the remainder of the time.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the vote in relation to the Lautenberg amendment No. 4689 be at 4:05 p.m., with the remaining time between now and then equally divided between the proponents and opponents of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank my colleague from Nevada.

There is a lot of interest in this bill. People want to do something for our young people. People want to avoid these horrible situations. My friend cited the case of a young woman who was raped by her father, yet in this bill, the father retains all rights to take her over a State line. Can you imagine, to sign a parental consent form, a father who raped his daughter? So we want to correct these problems.

I yield 5 minutes to Senator PATTY MURRAY and then 2½ minutes to Senator LAUTENBERG at the close of the debate.

The PRESIDING OFFICER. The Senator only has 5 minutes.

Mrs. BOXER. Mr. President, I was told we have until 5 after, equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. I thank the Chair. It is the first time all day I have been correct.

I yield to Senator MURRAY 5 minutes and then, at the end of the debate, Senator LAUTENBERG for 2½ minutes.

Mrs. MURRAY. Mr. President, I rise today to speak about the so-called Child Custody Protection Act. This is yet another one of those divisive bills with a deceptive title and a dangerous impact on women.

Today, many Americans are upset about the direction in which our country is moving. One would think that the Republican majority would finally start addressing the real issues that affect working families every day—issues such as access to healthcare, high energy prices, fixing the prescription drug program, and protecting our ports.

But instead, we are seeing yet another debate on election year gimmick. Last month, Republicans rolled out a constitutional amendment on gay marriage just so they could energize their base. Then they brought up a constitutional amendment on flag burning. Now we have a divisive bill that threatens the health of women and undermines our rights.

It is no wonder that Americans are so frustrated with the Republican majority.

Today families are facing real challenges, and once again, what we see here is the Republican leadership is playing election year games. To me, this is just the latest example of how Republicans have the wrong priorities.

With a war overseas, painful cuts to education at home, veterans being denied healthcare, soaring energy costs, and mounting debt, the Republican majority is saying this is the most important issue we could be debating today.

They should stop wasting time on divisive election year politics and start focusing on the real challenges facing the American people.

We should be talking about pressing needs, not a dangerous and misguided bill that threatens the health of our Nation's young women.

Today's debate comes in the context of a series of attacks on women's rights.

Since 1994, we have seen a consistent and aggressive effort in Congress to limit a woman's right to choose.

There have been more than 170 antichoice votes taken in Congress since 1994. This bill follows that troubling pattern.

The legislation is not about protecting young women, or improving communication within families, or stopping sexual predators.

Instead, it is just another attempt by Republicans to chip away at a woman's right to safe and legal reproductive health care.

Let me turn to the substance of the bill.

This legislation could criminalize a grandparent, aunt, or adult sibling, for responding to a request for help from a young woman in a crisis pregnancy situation.

If any of these caring adults accompany a young woman across State lines to obtain reproductive health services, and the woman's home State has a parental-involvement law, then those caring adults could be criminally prosecuted.

Today, an amendment will be offered to exempt grandparents and clergy from this onerous bill. It is the least we can do to minimize the harm of this legislation.

But this law doesn't stop at turning caring adults into criminals. It would also criminalize anyone who transports a pregnant minor across any State line.

Imagine a young woman living in a rural area with no reproductive health service providers and the nearest facility is in a large city just over the State line. If that young woman boards a bus or takes a taxi to the city to get an abortion, the person who drives her could be criminally liable under this law and sued by the parents.

I think we all agree that a young woman facing a crisis pregnancy should be encouraged to talk to her parents. According to a study by Stanley Henshaw and Kathryn Kost, in the vast majority of these situations, the young woman does involve her parents. But tragically, in situations where women don't tell their parents, one-third of the young women are victims of abuse.

In an ideal world, every young woman would take to her parents, but we don't live in an ideal world.

The reality is that a young woman cannot always turn to a parent. We are not talking about a young woman who is afraid her parents will be ashamed or shun her. We are talking about serious situations where the young woman may be a victim of incest or abuse.

A young woman who has an abusive home situation often accurately predicts the danger of telling a parent about a pregnancy. This bill would punish those young women if they seek the support and help of other family members or clergy.

We live in a time when we have a lot of families who don't fit the traditional two-parent model. More and more grandparents are raising their grandchildren. Divorced parents are getting remarried, and young women can develop close relationships with their stepparents.

In these families, the caring adult who is responsible for the day-to-day care of a young woman would be criminally liable and could even be sued by an absentee parent.

We also know that some young women have no other alternative but to go to another State to obtain reproductive health services. Access to these services all across our country is severely limited—87 percent of counties have no providers.

There are States, such as Mississippi, that have only one provider. Our laws should reflect the reality that for some women, these services cannot be found locally.

Unfortunately, the only thing this bill does do is ensure that young women who are intent on seeking reproductive health services ''go it alone.''

If a young woman thinks that bringing a caring adult or supportive friend will get that person in trouble, she will make the trip on her own.

You wouldn't want your children to drive home from the hospital after having surgery, but this legislation will result in young women driving themselves after having a medical procedure.

How can my colleagues say that this bill is about the safety of young women when it actually endangers them more?

Proponents claim that the ''judicial bypass procedure'' is an adequate protection for young women who feel they can't involve their parents. That is not the case.

A young woman would have to go to a courthouse, get a hearing, tell the judge and anyone else in the courtroom her situation, and wait for a judge to rule.

Now imagine that this happens in a small town where the judge is friends with her parents. Whether it is a big city or a small town, a young woman who has never been to court could find the whole process intimidating and overwhelming.

This bill doesn't even have an exception to protect the health of young women. That raises huge constitutional questions.

Since Roe v. Wade, every constitutional Federal law restricting a woman's right to choice has contained a health exception, and many laws have been struck down because they lack one.

Should we really be saying that a young woman's health does not count when she faces a crisis pregnancy?

Is this Senate ready to tell young women that their health and safety do not matter?

This bill doesn't care about a young woman's health—and it barely even cares about her life. That is because the bill's exception for a life-threatening situation is very narrow and very limited.

In addition, according to experts who have studied it, this bill could effectively nullify the laws of States that allow physicians to provide confidential medical services to minors, such as my home State of Washington.

The people of my State have twice affirmed a woman's right to choose. That is the settled position of our State. This bill could reach into my home State and effectively eliminate those protections.

No matter how one feels about this bill, I think everyone should be concerned that Federal intervention could undermine the ability of States to set their own laws on this difficult subject.

The House version goes even further, potentially making criminals out of Washington State physicians who follow the laws of Washington State.

Proponents of this bill claim that it is needed to prevent sexual predators from taking pregnant young women across State lines to obtain reproductive health services against their will. But that is not how the bill is written.

If it were truly meant to prevent sexual predators from harming young women, why would it criminally prosecute a young woman's family members, including grandparents, aunts, or adult siblings? Why is the scope of this bill so broad that it includes clergy members and even unknowing taxi drivers?

Every one of us wants to reduce the numbers of abortions that occur.

Instead of forcing the Government deeper into sensitive and personal family relationships, we should focus on preventing teen pregnancies.

Mr. President, to summarize, across the country today, Americans are very worried about what is going on, whether it is access to health care, high energy prices, prescription drug programs, or protecting our Nation's security. But instead what we are seeing this afternoon is an election year gimmick.

Last year, we saw a constitutional amendment on gay marriage to energize their base, and then they brought up a constitutional amendment on flag burning, and now we are having a debate, instead of on the issues which are on the front burner for every American family, about the health of women and how we are going to undermine their rights. I find that very sad.

Let me talk a few minutes about the substance of this bill. As my colleague from California said, this is a bill which is going to criminalize a grandparent or an aunt or an adult sibling for simply responding to a request for help from a young woman who is in a crisis pregnancy situation. We will see later an amendment to exempt grandparents and clergy from this onerous bill. I hope we do that. It is the least we can do.

But I think what we should all agree on is that a woman who is facing a crisis pregnancy should be encouraged to talk to her parents. In fact, we have seen studies by Stanley Henshaw and Kathryn Kost that in the vast majority of situations, a young woman does involve her parents. But tragically, in situations where women don't tell their parents, one-third of those young women are victims of abuse. Those are the women we are going to be affecting by legislation such as this.

In an ideal world, the young woman would talk to her parents, but too often, too many young women do not live in an ideal world today. They cannot turn to a parent. We need to make sure they have the availability of health care for their needs, and this bill takes that away.

Unfortunately what this bill really does is ensure that young women who are intent on seeking reproductive health services go it alone. If a young woman thinks that bringing a caring adult or supportive friend will get that person in trouble, she will make that trip on her own. You wouldn't want your children to drive home from the hospital after having surgery, but this legislation is going to result in young women forced to drive themselves home after a medical procedure.

I don't see how my colleagues can say this bill is about the safety of young women when it actually endangers them more. This bill doesn't even have an exception to protect the health of young women, and that, frankly, raises huge constitutional questions about which we have heard.

This bill doesn't care about a young woman's health, it barely cares about her life, and that is because the bill's exception for a life-threatening situation is very narrow and very limited and, according to experts who studied it, this bill will effectively nullify the laws of States such as mine that allow physicians to provide confidential medical services to minors.

For that reason, I will oppose this bill, but I do commend the Senator from New Jersey, Mr. LAUTENBERG, who is offering an amendment that we will be voting on that is a comprehensive approach to reproductive health care for our teenagers. It will help reduce teen pregnancy, and that is its goal. That amendment would be a good step forward, but even that addition is not going to save this flawed bill.

We should be working on ways to reduce the number of crisis pregnancies among teens and women alike. That is why, on issues such as emergency contraceptives, I fought so hard to make sure the FDA makes its decision based on science on whether that drug is safe or effective.

Unfortunately, the bill we have in front of us today is just another ploy for the majority to get their base excited in an election year and, frankly, I am deeply concerned that women's lives are being used as pawns in a political debate. I believe women's rights should never be traded away in a ploy for votes.

I hope we send a message that we know our country is facing serious challenges and we are going to spend our very limited time addressing those challenges and fighting for all of our families.

I urge my colleagues to vote against this dangerous, divisive, and misguided bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. ENSIGN. Mr. President, the Senator from California said twice today that this bill protects a father who commits incest with his daughter. In other words, he can commit a crime and still take her across State lines to get an abortion.

That argument is illogical. Obviously, a father is a parent. In a State with a parental consent law, he is a parent with rights under State law. If he wants his daughter to have an abortion, to cover up his own crime, he can freely give his consent to allow his daughter to have the abortion in their State of residence. That father doesn't have to take his daughter across State lines. As a result, this bill does not affect such an outcome one way or the other. His abuse of his daughter in that situation is not only morally wrong, it is illegal. This bill doesn't affect that situation one way or another. So to say we are protecting a father's right to go across State lines—it is an argument, frankly, that just doesn't hold water. It just doesn't. This bill doesn't have anything to do with what the Senator was saying.

Let's just talk about what the bill does. This bill says that if a State has

enacted a parental consent or a parental notification law and if a teenage girl in that State gets pregnant and somebody besides her parents wants to take that child across State lines to avoid those parental consent or parental notification laws in direct violation of what the people of that State want, in direct violation of what the parents would want, that act, transporting a child across state lines, is a Federal offense. And that crime is punishable with time in prison.

Look at the consequences of not having this bill. I would point out, in order to put this in its proper context for my colleagues, that over two-thirds of the girls who have been taken across State lines for an abortion have boyfriends who are over 20 years of age. So typically, you would have a teenage girl with a boyfriend who is significantly older than her. And in the context of that relationship, the young girl becomes pregnant. Sometimes that pregnancy is the result of a forcible rape, where the girls does not consent; in most cases, it is at least statutory rape. This legislation will help law enforcement stop adult men from preying upon underage girls and violating the law with respect to the crime of rape—statutory or otherwise. Which is the right thing to do. This bill makes it a further crime if that male takes this young girl across State lines to get an abortion to cover up his tracks, basically to try to eliminate the evidence of his crime. Without this bill, the man who has already taken advantage of a young girl can further endanger her, by forcing her to have an abortion, with potential emotional scarring beyond what she has already gone through and potential physical scarring. In an abortion, some women actually become sterile because of the procedure, because of complications from the procedure.

The parents of most children in the United States are responsible. To take away their ability to be involved in something that is so important, so potentially life-altering with this teenager I believe is just wrong, and I think that is why 80 percent of the American people support this legislation.

In polls I have seen, 60-plus percent of people who call themselves prochoice support this legislation.

We are in a society that is so deeply divided over moral issues, and none more divided than this issue—the issue of whether you call yourself pro-life, or pro-choice, or anti-choice, or pro-abortion, or whatever names that are tossed around. I believe reasonable people can at least come together on some restrictions on abortion. This is one of those reasonable restrictions. That is why over 80 percent of the American people support this legislation.

It is only constitutional when—and this law only applies when—the States have judicial bypass. For those people who are concerned about whether in the case of incest the girl is going to be subjected to some kind of further abuse, it is reasonable that the judicial bypass is there and the reason the courts have recognized that for the parental consent cases. We are not forcing States to do anything as far as their laws are concerned. We are upholding the intent of the people of each State by saying don't circumvent the laws of our State by taking a minor outside of our State. The people of that State have spoken. I think we should at this point in time try to respect the laws the people of that State have enacted. Most importantly, we protect the parents' rights and the health and the lives of children across the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before we yield the 2½ minutes, this issue of incest is extraordinary. The bill as written ''protects the predators on our children who have committed incest.'' All you have to do is read it. These parents, these fathers, retain their parental rights in the bill. And even under the Ensign amendment it says they cannot sue a friendly person for helping their daughter. The government under this bill can still go after a grandma, or a clergyman who says to a young child, Let me help you, your father raped you. Those vicious criminals retain all their rights. It is an absolute outrage.

The point is, why I am in favor of the Lautenberg amendment is the Lautenberg amendment says let us take a step back, let us prevent these pregnancies. And if people want to vote against teen pregnancy prevention, I guess they have a right to do that. How they would explain it is beyond me. We are talking 800,000 teenagers who get pregnant, and in about 18 percent it was not intended.

I thank Senator LAUTENBERG and yield to him the remaining time before the vote.

The PRESIDING OFFICER. The Senator from New Jersey is recognized. The Senator has 1 minute.

Mr. LAUTENBERG. Mr. President, how incomprehensible it is that we have a position on the one hand that refuses to acknowledge in this body there are other ways to control teenage pregnancies than abstinence. We are not against abstinence. There are funds provided in the President's budget for 2007 for abstinence—$204 million. This amendment asks for additional funding to supply comprehensive education. We heard from the Senator from South Carolina saying that he describes our values as shared values. But we are not sharing values with the people in South Carolina from Bamberg County who had the lowest rate of teenage pregnancies after they started a program for comprehensive education in South Carolina. The Senator from South Carolina said we had to have shared values on these things. But these are shared values.

I hope our colleagues will look at this fairly, and think about the women who are hurting because they are prevented from getting an education and vote ''no'' on this bill and ''yes'' on my amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Mr. President, one last point related to instances where a father has raped his daughter and whether his rights are protected under this bill. We have an amendment that will address the concerns raised with respect to that issue. The Senator from California mentioned that the grandfather could be sued under this bill, could be prosecuted under this bill if he took his granddaughter across State lines to get the abortion. In that circumstance, the grandparent should be calling the local authorities. If it is a clergy, a friend, whoever it is that has knowledge of a crime against a child, that person should be calling the local authorities so that young child can be removed from that awful situation that she is forced to live in. The authorities should be involved, and in those cases where pregnancy results, the young girl, with the help of her grandparent, clergy member or other adult can seek a judicial bypass. I am confident that a judge hearing that case would allow an abortion under judicial bypass. But if the grandparents or the clergy truly care about, or the friend truly cares about that young girl who has been a victim of incest, then that adult should contact the local authorities. That is how an adult would be acting in the best interests of the child. Otherwise, all the adult is doing is taking her across State lines for an abortion, bringing her back to her home state, and returning her into the same very harmful situation that she was in before.

I yield the remainder of time. I call for the vote.

The PRESIDING OFFICER (Mr. CHAFEE). The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—48

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Smith
Conrad	Levin	Snowe
Dayton	Lieberman	Specter
Dodd	Lincoln	Stabenow
Dorgan	Menendez	Wyden

NAYS—51

Alexander	DeWine	Martinez
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Frist	Roberts
Bunning	Graham	Santorum
Burns	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Cornyn	Isakson	Thune
Craig	Kyl	Vitter
Crapo	Lott	Voinovich
DeMint	Lugar	Warner

NOT VOTING—1

Feinstein

The amendment (No. 4689) was rejected.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. THUNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I ask unanimous consent that for the next 20 minutes, the first 10 minutes be taken by the Senator from Illinois, Mr. DURBIN, and then the 10 minutes following that would be allotted to Senator SANTORUM from Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, this is a difficult issue for most Americans, the issue of abortion. There are strongly held feelings on both sides and the American people are conflicted. When you probe and ask them what they think about abortion, first, they would rather not talk about it. I think that is a natural human reaction because we know it is a delicate and difficult issue. Secondly, they basically say: Well, I don't want to criminalize someone who goes out for an abortion, but is there any way to reduce the number of abortions in this country? I think that is a natural reaction by most, that we should keep abortion legal, not a crime, but reduce the incidents of abortion in our country.

So we have a bill before us today which deals with one aspect; and the aspect is, what do we do about the fact that some States have laws that require parental consent before a person who has not reached adulthood would have an abortion performed and some States do not have those laws? What if you move from one State to the other? What law will apply?

Senator ENSIGN of Nevada brings us his bill and suggests that if you knowingly remove a person across one border where parental consent is required to another State where it is not required, the person who took that minor to that abortion clinic in the State without parental consent is going to be liable not just for a civil lawsuit that can be filed against them by the parents but also for a crime.

Their idea is to reduce the likelihood that young people will be taken across a State line to a State without parental consent by imposing new civil penalties and criminal penalties on those who would transport them.

Senator BOXER of California has come before us and pointed out some real problems with this bill. What about the situation where the young girl we are talking about has been a victim of incest? Would the father then have the right to bring a lawsuit against someone who took the daughter he abused across the State line? Nobody wants to talk about this issue. This is not the kind of thing you wake up in the morning and say: I hope the debate today will be about abortion and incest. But that is what we face. We are talking about writing the laws of the land in a way that is sensible. You say: That has to be a rare situation. Yes, it is. I am sure it is. But for that life and that person and that crime, it could be the most important and tragic event that ever happened in their lives. That is why we have to take this very seriously. We have to write these amendments very carefully.

The thing that troubles me about this debate is evidenced in the vote we just took. Senators LAUTENBERG and MENENDEZ came to the floor and said: If we are truly going to reduce the number of abortions, then we have to deal with the reality of family planning and sex education, other issues that politicians don't jump forward to speak about. They suggested we start creating programs that have been proven to be effective, that will help educate young people so they will avoid unwanted pregnancies and avoid the diseases and problems that may result therefrom.

What happened on this vote? What happened on a vote where we were talking about sex education as part of our approach? It was defeated. The approach which is dominant now is not to deal with the reality of young people and their knowledge of what they face if they make the wrong decision but, rather, punishment, to suggest to them that what they have done is not only morally wrong but could be criminal.

My wife and I have raised three children, two daughters. I know that to be a parent is to be countercultural. So many times we would say: We don't want you to go to that movie or look at that book; you can't watch this television show. Parents do that all the time in the hopes that you instill in your kids values they can live by and that they will make the right decisions. I never felt at any point that ignorance was a virtue. I felt with our kids, as many parents do, you have to be honest with them about the realities of life and what they will face.

The question of abstinence comes up on the floor. It is brought up by many. That is the first thing we told our kids: Stay away from sexual activity. This is something you shouldn't do. That is the best advice from a parent to a child. But beyond that, what more should you tell them? Senator LAUTENBERG suggests you should tell them more in certain circumstances, and it was rejected 48 to 51.

You might ask why we are debating this issue this day. I think it is important for us to reflect on why this happens to come to the Senate floor today. This issue is before the Senate today for two or three reasons. One reason is many Republican Senators who traditionally vote against abortion voted for stem cell research last week. This is a make-good vote. This is so some of them can remind their antiabortion constituencies they are still in their corner. I understand that.

Secondly, it is a way to kill time in the Senate rather than address the real issues the American people care about. This debate over this issue is taking time away from any debate on gasoline prices, on health insurance, on jobs.

Third, of course, it fires up a political base on the Republican side for the upcoming election.

A Gallup poll asked 1,000 Americans this open-ended question: What do you think is the most important problem facing this country today? They asked 1,000 Americans a few months ago. The top vote getters: The war in Iraq, gasoline prices, immigration, health care, and the economy. Where did the issue of abortion show up on this list? It tied for No. 33. Less than one half of 1 percent of people said abortion was the most important problem facing America today. But it is the most important issue in the mind of the Republican leadership that we should be debating on the floor of the Senate.

I hope we are able to work out an amendment to deal with the reality of the issue of incest, which is part of the debate, sadly. Perhaps the most egregious part of this bill is the fact that there is no exception for the case of incest. It empowers the parent who may be guilty of the crime to file a lawsuit and recover money because someone else took the victim across a State line. That is hardly where we want to go. Many incest victims are understandably frightened and don't want to tell their parents anything for obvious reasons.

Listen to the words of Sharon from New Hampshire, raped by her father at the age of 17:

> Imagine being 17, pregnant after being raped by your father, alone, isolated, afraid to tell anyone for fear your parents would find out and that, if they did, you would be further humiliated, harassed and abused. . . . I felt and feared these things.

Consider the case of Spring Adams, a 13-year-old girl from Idaho, raped by

her father and impregnated. A private organization learned about the girl, made arrangements to take her to the nearest abortion clinic 6 hours away to have an abortion. The night before Spring was to leave, her father discovered it. When Spring went to sleep that night, her father went into her room and shot her to death with a rifle.

These aren't isolated incidents. One study showed that 30 percent of the minors who had an abortion without telling their parents had previously experienced violence or threats of violence in their family. That is the real world. We should deal with the real world when we write these laws.

I think Senator ENSIGN understands changes have to be made to this bill. I hope we will make them. Let us all agree on this: We need to find ways to reduce the incidence of abortion. We need to find ways that are sensible and sensitive. Merely telling people you can't do it, you shouldn't do it, may not be enough. Education may be part of it as well. It is unfortunate the Senate has rejected the Lautenberg amendment which would have moved us closer to the point where that would have been available in some areas where good family planning information would have been available. It was rejected by the Senate.

Now we come before the Senate with this bill that is subject to amendment. We are hoping we can find a reasonable compromise on a very difficult and divisive issue.

Mrs. BOXER. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mrs. BOXER. I want to go back to the Lautenberg-Menendez amendment. It is extraordinary to me; when we try to talk about common ground on the issue of pregnancy prevention, doesn't my colleague believe one area we ought to all come together on, regardless of whether we call ourselves pro-choice or anti-choice, would be preventing pregnancies among teens?

Mr. DURBIN. That ought to be the starting point. Shouldn't we all agree on that? If we are going to reduce the incidence of abortion, one of the things we should do is make sure young people are aware of consequences. We should stress abstinence. The Lautenberg amendment put that as the highest priority. But then have family planning information available so young people know that there are ways to protect themselves. I think that was a reasonable starting point. We had a few from the other side of the aisle join us with that amendment but clearly not enough.

Mrs. BOXER. If my friend will further yield, is my friend aware there are 800,000 pregnancies among young women and that we could prevent these unwanted pregnancies and all of the attendant upset among families and that we had an opportunity to do that?

The PRESIDING OFFICER. The Senator's time has expired. Mrs. BOXER. I ask unanimous consent for 30 additional seconds and for Senator SANTORUM to have an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Here we had a chance to do something to prevent these unintended pregnancies. This bill focuses on a small number of cases. It seems to me by two votes we lost that vote. It is an issue, wouldn't my friend say?

Mr. DURBIN. I would say we have to find very common ground on a divisive issue. That was a good starting point. Unfortunately, it did not prevail today. We will go on with this debate, but I hope those of us who look at this issue and worry over how to reduce the number of abortions can work to find some common bipartisan ground to help strengthen families and educate their children about the consequences of their actions, to promote abstinence but not to promote ignorance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise in strong support of the Child Custody Protection Act. I congratulate the majority leader for scheduling time for this important piece of legislation, as well as Senator ENSIGN for the terrific work he is doing in managing the legislation as the author of the bill.

This is very important legislation. It has been described many times so I won't go into detail. What we are trying to do is protect children from being taken across State lines to avoid parental involvement laws. As a father of six children, two daughters, I believe parents should be involved in the health care decisions of minor children. I am not alone in that regard. The vast majority of Americans believe in parental consent laws when it comes to having abortion procedures done on minors, that parents should be involved in that decision.

The Senator from Illinois described situations that are certainly the exception rather than the rule. When those exceptions arise, in all of the States there is a judicial bypass. The Senator from Illinois described some pretty horrific circumstances of incest or rape. Here you have a situation where if we don't have this law, the rapist or the person who committed the incest against this minor child could take that child across State lines, never report it to the police, have the abortion done, and the parents never know about it. Nobody knows about it, and the child is back in the home and potentially in the same threatening environment the child was in in the first place. At least under our parental consent laws and with this statute, if we are successful, the court can get involved. We can remove that child from the dangerous situation.

I don't know why allowing someone surreptitiously to avoid state parental consent laws is a benefit to the child. If anything, it is the opposite. That is not a rational reason for objecting to this statute.

Again, I suggest the American public overwhelmingly feels the same way. Parents deserve and should have the ability to be consulted and notified or give consent, depending on the State, to a medical procedure as severe and serious as an abortion.

If you look at the poll question, do you agree or disagree that a person should be able to take a minor girl across State lines to obtain an abortion without her parents' knowledge—this isn't consent, it is just knowledge—15 percent agree, 15 percent agree with that statement that she should be able to be transported across State lines; 82 percent disagree. They said people should not be able to take a child across State lines without the knowledge of their parents. Seventy-five percent strongly disagree with the current state of the law which is you can transport children across State lines in order to circumvent state parental involvement laws.

In Pennsylvania, all of the surrounding states but the State of Ohio have weaker laws on parental involvement than the State of Pennsylvania. So a child in the northwestern part of our State can go up to New York or, in the eastern part of the State, New Jersey or Delaware or, in the southern part of our State, Maryland, West Virginia, all of which have laws that are not as favorable to parents and children as Pennsylvania with respect to consent.

This is, unfortunately, not a hypothetical for those of us in Pennsylvania. There are cases, unfortunate cases of children being taken by a boyfriend or his family members across State lines and the horrible consequences that result.

We also have abortion clinics from other States that advertise in Pennsylvania. There are a couple of ads I will put up on the board. This is northeastern Pennsylvania. Scranton is there, up near the New York border. Here in the Scranton Yellow Pages is the All Women's Health and Medical Services in White Plains, NY, a toll free number; ''We are here if you need us.'' This is, again, advertising in White Plains, NY, which is not that close to Scranton. It is at least 50 miles away. And it talks about no consent, no waiting period. There is a parental consent provision in the Pennsylvania statute that was upheld as constitutional back in 1992. There is a 24-hour waiting period. Again, the clinic is advertising no consent, no waiting period, directly aimed at minors in Pennsylvania urging them to come and have abortions at their clinic across the State line.

Here is another one. This is at the other end of the State, the southern part of our State. This is the Yellow Pages in Lancaster. Atlantic Women's Medical Services, Inc., no parental consent, 16 years and older. The Pennsylvania law is 18 years of age. So if you are 16, 17, they require no consent; again, directly targeted at a State, encouraging women and others to bring

young women across the State line for abortions. They advertise abortions to 24 weeks, the abortion pill, low fees, all trying to make sure these young girls know that abortions are available without consent.

This is not a hypothetical. This is direct marketing to minors, direct marketing in the Yellow Pages to minors who are desperate and, in many cases, afraid and feel alone. They are marketing to these vulnerable children to get them to not talk to their parents but to come and get an abortion out of State, against their State laws. This is, again, not just a hypothetical but a real-life situation. And which I will share a case.

We had a case in Lancaster, PA, which began on Christmas Eve, 2004. A 14-year-old told her mother she was pregnant. The parents were prepared to be supportive, to help that child in whatever decision she made and in scheduling appointments with doctors, counselors, and other programs that could help this child get through this very difficult situation. The daughter chose to have the baby and raise it with the love and support of her family.

But the boyfriend's family didn't like the young girl's decision and began to harass and coerce the girl and her family in order to intimidate her into getting an abortion. The mother called the local police for advice and even called an abortion clinic to see how old you needed to be to have an abortion in Pennsylvania because she was afraid that her daughter might be pressured toward an abortion. She was told the daughter needed to be 16 though that was actually incorrect because she needed to be 18 to have an abortion without consent. Therefore, her mother thought she was protected.

That wasn't the case. In mid-February, she sent her daughter off to school, but the daughter never made it there. Her boyfriend's family met her and her boyfriend down the road, put them in a cab and then on a train, and then a subway to New Jersey, where his family met them and took them to an abortion clinic where one of them had made an appointment. The young girl had second thoughts, but she was told they would leave her in New Jersey if she didn't undergo an abortion.

After the abortion, the family of the boyfriend, who may have been attempting to conceal the evidence of his statutory rape, drove her back to Pennsylvania. Again, this left the young woman completely unprotected with the state not being able to go after this young man and his family for taking her across state lines for an abortion. That is what it seems was behind the parents trying to get rid of this child. This is a situation which should not happen. We have State laws that protect children and parents and their rights to be able to nurture and help their children along the way.

This was a difficult circumstance, and as I said before, there are, unfortunately, others. We even have in the State of Pennsylvania organizations outside of these legal clinics that are trying to give advice and help to minor children on evading the parental consent laws. There is an organization called the Women's Law Project. It says here in their publication, ''Is it legal for teen-aged women to cross State lines to get an abortion?'' This is a document which is handed out and given to young women to help them avoid the State laws that are in place for parental consent. It says:

> Yes. However, the adult may risk a charge of interfering with the custody of a minor. Adults who are accompanying young women under 14 to out-of-State abortion providers should contact a lawyer for the Women's Law Project.

So if you are over 14 years of age, they assure you that you can go to an abortion clinic out of State. If you are under 14, your accompanying adult may have to call our lawyers to take care of the situation.

This is a real-world situation, a problem we are confronted with in this country. All we are trying to do is let the State laws, the collective wisdom of the people of Pennsylvania, have effect, have efficacy; that the laws which are put in place are there to protect children and the rights of parents. The only one that can stop others from getting around those protections and avoiding State laws is the Federal Government, by stopping the interstate transportation of these children for the purpose of abortion.

So this is a vitally important piece of legislation for the Commonwealth of Pennsylvania. This is one in which I am hopeful that 75 or 80 percent of the Senate will agree with when it is all said and done because it is vitally important, for the health of our children and for the stability of families, to give families and children this legal protection. That is what we are doing. That is what these States have done—given legal protection from further abuse of minors who find themselves in a situation where they are pregnant and under, obviously, a horrible situation in their lives. They need their parents. Where the parents are the problem or a threat to them, there is a judicial bypass. We have in place safeguards where parents are the problem, which, again, is a minority of situations. We do have protections in place.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. Yes.

Mr. DURBIN. The bill creates a civil cause of action the parents can bring. Does the Senator from Pennsylvania believe that in one of those rare, tragic cases of incest and the father is the reason for the incest, he should be allowed to bring a civil cause of action against the person who has transported the victim?

Mr. SANTORUM. The Senator from Nevada has an amendment which is going to take care of that situation. I will defer to him, if he would like to answer that question on how the amendment would work to preclude that problem.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, to answer the Senator from Illinois, we are going to fix that. We realized we needed to fix that problem, and we have an amendment. The Senator addressed this, and that will be one of the amendments that is coming up.

I yield 10 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I thank the Senator from Nevada, and I thank the leadership for bringing up this topic. It is commonsense and pro-family legislation. I hope we pass it in an overwhelming fashion through this body and that it arrives on the President's desk once we go through conference committee and get it back here and that it can become the law of the land.

The bill has been described in many different iterations. I believe people understand the concept of what is being put forward about involving the family. I believe this is a significant pro-parent, pro-child, pro-life piece of legislation. It is a bill that everybody knows is to help to preserve this role by making it illegal for somebody to take a child across State lines for an abortion, thereby circumventing parental rights laws in the State where the child resides. That is all well known. The issue I wish to deal with briefly, if I could, is the commonsense feature of this legislation.

Everybody has talked about the examples of how you cannot get an aspirin in school without the parents' permission. You virtually cannot do any medical procedure without the parents' permission, except an abortion. Everybody looks at that, and they are quizzical and wonder why there is this exception.

I wish to talk about the commonsense feature of this. Why is it that we don't give aspirin to children at school? Why is it that we require that parents are involved in the medical decisions of their children? The reason, I think—and most people look at it as common sense—is that there are consequences to this. If this happens, if the child has a response to the aspirin or if the child has some reaction to a minor surgery, the parent needs to be involved. Something might happen, so the parent needs to know. We need to take care of the child. The parents have the role of being entrusted with that child's life and working with that child and therefore needs to be actively engaged in knowing what is going on with the child.

We have held hearings in the Senate and in the House of Representatives, and many States have held hearings on

the impact of abortion on women. There are groups that are formed about the impact of abortion on women, both physically and psychologically. We have had expert witnesses present and testimony about how abortion impacts and harms women physically and psychologically. There have been books written on this topic. Some people say: We don't think it has as big an impact as you say it has. Others say: I think it has a bigger impact. That debate can be taken, I suppose, to any medical procedure on a child.

The point of the issue is that we have the parents there to help them help the child, and they decide. That is who is making the decision. That is who is making the decision on whether the child gets minor medical care at the school. You want the parents involved. They are the guardians, the ones who are responsible.

Here is a situation where, clearly, you have a physical impact on the child. I believe clearly that you have a psychological impact on that child. I think that has been documented. Others question whether that has been fully documented. Clearly, on a number of women who have abortions, there is a psychological impact. Isn't it simply common sense that parents would be involved in such a monumental decision that is going to impact this child for the rest of their life and that parent would be involved in helping the child to process what is the wise decision, the right thing to do, the appropriate thing, what the options are and the sorts of things they can do? Particularly at a time when the child is going to have to process this in a difficult emotional situation, the parent needs to be involved and should be involved to give that wise counsel, prudent counsel, to the child involved in this particular circumstance.

Parents can and do help present all of the health facts to their children and help them make a prudent decision. That is just basic common sense. It is the right thing that we ought to do. Parents can help to spot abusive situations which might not otherwise be evident to the child. Without parental involvement, abortion can be forced upon a young woman by, in some cases, an abusive male figure in order to cover up a crime.

The role of parents in protecting children is essential. This cannot be delegated to any other person. Yet in this law, we even provide for the judicial bypass procedure. Especially when a daughter is facing an unintended pregnancy, parents need to be involved. We talk a lot on the Senate floor and have worked over the years to try to build more and stronger family units. One of the key ways to do that is to have the parents more involved in the decisionmaking of the child, particularly when health consequences are there. This is one on which that should take place.

When a child is undergoing this procedure, it does clearly terminate a young life growing in the mother's womb. That has an impact on the child psychologically, if in no other fashion. Parents need to be involved in helping to process how that is going to be handled for the child.

I believe this legislation is a step in the right direction. It would go some distance toward helping protect parents' rights and children's health. It would help integrate and build that relationship between the parent and child.

I urge my colleagues to pass this legislation. I hope, as a message to the country, we can pass it in a large bipartisan fashion and send a signal to people that this makes good sense. It is appropriate for us to do.

It is not simply that you are pro-life or you are pro-choice; therefore, we are going to split on those lines. Rather, we should look at this as parents, as we virtually all are on this floor, and saying as a parent, whether I am pro-life or pro-choice, I would want that sort of information for my child, and I would want to be able to have that information to process as a parent, and that I would say to my legislators I am one way or the other on the abortion debate, but as a parent I believe it is my duty to know this. This is my duty to be involved in this type of decisionmaking for my child.

I think that is why, while we have a lot of debate about the issue of abortion in the country, this is so strongly supported by people because so many people look at this outside the abortion debate, and they look at it much more as a parental debate, as to how they observe and they deal and they want to deal with this particular issue. I urge my colleagues to look at it that way as well. Take it out of the grid of the abortion debate and put it into the decisionmaking grid of a parent. I think if we do that, we will pass this in a strong bipartisan fashion.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from California is recognized.

Mrs. BOXER. Mr. President, I yield myself time off the bill. How many minutes is remaining on our side on the general debate on the bill?

The PRESIDING OFFICER. The Senator has 25 minutes remaining.

Mrs. BOXER. Mr. President, I have not yet had a chance to lay out my objections to this bill. I would like a chance to do that and, of course, those objections have just been elevated given the fact that by just two slim votes, we failed to adopt teen pregnancy prevention legislation, which is, of course, one of the most important issues we face in our society today. We have 800,000 young women whose pregnancies could have been prevented if they had such education.

Here we are dealing with a bill that seems to come back before the Senate every election for reasons that the other side can explain. Instead of tackling the issues of health care for our young people, insurance for our young people, pregnancy prevention for our young people, we are dealing with an issue that impacts just a few people. But so be it.

The good news is, we have had a debate on teen pregnancy prevention. The whole country got to see it, and they got to see where the votes lined up. It is pretty clear.

The other good news is that we had a debate on stem cell research, and we saw a very similar situation where we picked up a few votes on the other side but not enough votes. The President vetoed stem cell research. You want to talk about a health issue, you want to talk about helping the health of our young people who have juvenile diabetes or those who are paralyzed because of an accident; if you want to talk about helping people with Alzheimer's or Parkinson's. But oh no, the President vetoed that. Another four or five votes in this Chamber could have made the difference between having stem cell research and not. But now we are not going to have it.

Frankly, in my State, we took matters into our own hands, and Republicans and Democrats together voted for stem cell research, and we have a $3 billion program. This isn't a partisan issue in my State. But oh boy, it is a partisan issue here. It just shows how far to the right we have come in the national debate.

So instead of doing something to improve a lot of our people, we are looking at this small issue. We are looking at a bill that, as it is now drafted, protects incest predators. We are working on that, hoping to come to some joint approach that can stop that problem, or part of it anyway.

As drafted, this bill throws grandmothers in jail and violates our Constitution. I would say this bill has a problem.

Again, we tried to make it better, but even our amendments did not go far enough. We did not have an exception for rape. If a young girl gets raped and she runs to the most trusted adult she knows, perhaps her grandma, and her grandma takes her into her loving arms because she is too scared to go to her parents for whatever reason. We have situations and I will share those with you where girls were so fearful, so frightened, and with good reason, that they couldn't go to their parents. So they go to a loving grandmother. And guess what? Under this bill, the parents can sue the grandmother. Unbelievable. That is Big Brother all right. Talk about family values interfering straight in. It is unbelievable.

We tried to fix the thrust of this bill to add on a Teen Pregnancy Prevention Act. We couldn't do it.

So this bill, at the end of the day, focuses on a small number of young women crossing State lines with an adult to get an abortion and ignores 800,000 pregnancies which could have been prevented.

We had our chance. We had our chance, but, oh no, it is going to be

about political correctness. It is going to be about rightwing ideology. Oh no, we can't do that.

This bill does nothing to increase communications between parents and teens. It does nothing to stop sexual predators. Most young women who become pregnant already turn to their parents for help.

This is a wonderful country. We have loving families, for the most part, loving open families who say to their kids, as I certainly did to mine, and my husband did: Anything you have on your mind, you just come to us. You feel free to tell us. That is how it should be.

When I was a child, my mother said I could tell her anything, and I did. I told her anything. She loved me unconditionally and helped me through whatever problem I might have had.

With my own children, I tried to emulate my mother. I hope and I think I did that. They are now grown. They take care of me.

But what about young people who don't have that warm feeling in their families? What about the millions of victims of violence and abuse? This bill, as it is drafted, hurts just those victims. It doesn't mean to. That is not the purpose of it. But we have found out in our lives that some bills have unintended consequences, and this one sure does.

As this bill is drafted, a father who commits incest and takes his daughter over a State line—we are trying to fix it, and we hope we can fix it—that father has rights under this bill. It is an outrage.

Nearly half of pregnant teens who have been abused or assaulted are found to be abused and assaulted by a family member. That is the sad truth. Thirty percent of minors who don't tell their parents have experienced violence in the home. In other words, they are too fearful to go to the home where they have suffered violence. They fear violence or they worry that, in a rage, their parents will kick them out if they tell them they have become pregnant.

Don't we want them to be safe and secure? Don't we want them to have help from a caring adult? I would hope so. But under this bill, a clergy member who really cares about the family could be sued by parents who abuse their children. A loving grandma or a loving aunt could be sued. Oh, there are no exceptions allowed.

Senator FEINSTEIN, unfortunately, is suffering from the flu and cannot be here today. She had an amendment—she cannot offer it—that would have exempted caring clergy and caring relatives. She couldn't be here.

This bill is so imperfect that I cannot begin to count the ways.

In my State, as I mentioned previously, parental notification laws have been voted down. In general, we all want to have adult consent. I believe it is important to help guide a young person through such a decision. But when we look at some of the unintended consequences of these bills and the fine print of these bills, we find that they are going to have the opposite effect of what we want. Instead of helping the minor, it puts her at risk.

We know some specific cases: A 12-year-old whose pediatrician discovered she was pregnant. It turned out the rapist was her stepfather and the mother wasn't living with the girl. The doctors recommended that her Aunt Vicki bring her to a specialist in a neighboring State. She was only 12 years old, the aunt said. It is bad enough to go through incest, but then to have a child from that incest. We should all agree that only the father should go to jail, not the caring relative, Aunt Vicki.

I know it is very difficult to talk about this topic, but some very sick people do rape. Fathers do rape, uncles do rape and even impregnate their daughters.

Look at these newspaper stories from around the country.

''An American Tragedy.'' This is from The Oregonian:

> A 13-year-old girl in Idaho whose father had impregnated her. . . . the morning she was supposed to have an abortion, her father, who admitted his guilt, walked into her room with a rifle . . . shot her in the head and then he shot himself.

How does this bill prevent that? This bill will frighten a girl, make her more alone because she can't go to a caring adult because a caring adult could be sued by a parent. So she is scared. She gets in a car. She drives over the State line by herself. She is all alone. The father finds out, grabs her. She has no protection. He shoots her, shoots himself.

What are we doing here? Why don't you look at what you are doing. Why don't you look at the practical impact of what you are doing?

Here is another: ''Teen Accuses Father of Rape,'' The Journal News, Westchester County, NY.

> . . . man was arrested and charged with first degree rape of his teenage daughter. The man tried to force his daughter to take an unknown pill to cause a miscarriage because he believed she was pregnant.

This happens too often.

''Father Sentenced for Raping Daughters,'' Newark Advocate:

> Man convicted of raping his two daughters. . . . the girls were 13 and 17 at the time of the crimes.

''Man Charged with Incest is Arrested in North Carolina'':

> Police said a father raped and impregnated his 16-year-old daughter and raped his stepdaughter who is mentally and physically disabled.

The way this bill has come to us from the committee protects the father. Senator ENSIGN and I are working hard—and I hope we can reach agreement—to solve the problems of this bill. But the way the bill passed the other body, they didn't pay any attention to this. Wonderful, we pass a bill that protects fathers who rape their daughter. It is basically a bill that, all of that incest aside, really will wind up in a young woman getting into a car on her own, frightened to death to tell her parents, and driving alone.

''Ordeal Ended/Dad's Arrest Ends Years of Rape for Teen,'' Newsday.

> For years, a convicted child sex offender used his Bronx home as a pornographic movie studio for sex videos of himself and his young daughter. The girl had tried at least once to alert someone—her mother . . . her mother took no action.

''Her mother took no action.'' As Senator ENSIGN and I try to reach an agreement on an incest amendment, let me be clear: We are not going to reach that mother. I, if I go along with this, am giving up a lot of my amendment. This is still an imperfect bill, and I will show you in a checklist my amendment versus the Ensign amendment and what we try to do in our amendment.

The Ensign amendment, as was originally proposed—we support it—stops a father who has raped his daughter from suing the trusted adult who helped his daughter end the resulting pregnancy. We applaud that amendment, and that amendment will hopefully be adopted.

But we don't stop with that because the Ensign amendment doesn't go far enough. We want to stop a father who has raped his daughter from exercising any parental consent rights. We want to stop all criminal prosecution or jail time for a trusted adult who helps a victim of incest.

Imagine under this bill a child goes running to a nextdoor neighbor whom she loves, a kind of an aunt to her, and she says: Please help me, please help me. I am pregnant. My father raped me. I can't go in that house. I can't tell my mother. My mother won't believe me. The nextdoor neighbor helps her. Under this bill the mother and the father can sue. We have to fix that. We are not going to fix it today. We can't reach all of what I am trying to do because I can't get agreement on the other side. It is still going to be an awful problem.

We also stop a father who has raped his daughter, or any other family member who has committed incest against a minor, from transporting her across State lines to obtain an abortion.

We don't want these perpetrators of incest to take their victims across the State line. We are working hard under the parameters of this bill to address the issue of incest.

At the end of the day, if our negotiations go well, we will have taken care of two of the five Boxer provisions. Will I be happy that these three provisions are not taken care of? No. I am not happy. It is outrageous that we can't get it all done. So be it. Let the people judge. But we will do as much as we can to improve this bill.

This bill as written protects the rights of brutal fathers. There are not many out there, but there are some.

There is only one thing that we can do to make matters worse than parental consent: that is giving these sexual predators more power over their children to keep on perpetrating these acts

and then saying they know how to handle it. They can handle it. Just take a child in the car and go.

The bill as written actually forces some young incest victims to get permission from their rapist fathers to get an abortion. Can you imagine? We have to fix that. And it allows the predator fathers to take their daughters across State lines.

We are trying hard to reach an agreement to take care of this problem. I am grateful that we may get two-fifths of the way there on my amendment.

I will work hard if this bill becomes law to fix this bill. I will introduce legislation to fix this bill. I will also prepare legislation that goes further than this and says if someone is a victim of rape and they are fearful of telling their parents, that parent, adult, or grandma can't be sued.

We really have a long way to go. This bill has many problems. It sends a message to young girls: Go it alone. Avoid all of this. Get in your car and go it alone. Don't take anyone with you. If you get in trouble at your moment of need, this bill says go it alone. She can go across the State line on her own. This bill doesn't do anything about it—only if she has a parent with her to help her.

I believe this bill is unconstitutional. The Supreme Court has been clear that abortion restrictions must not impose an undue burden on women, and they must include a health exception. There is no health exception in this bill. If a doctor takes a girl across State lines because he worries about her health, and if she doesn't get an abortion right away and faces paralysis or faces infertility, there is no exception in this bill. The doctor can be sued.

What kind of message are we sending to young women? Go it alone. What kind of message are we sending to fathers who commit incest or mothers who turn a blind eye to it? Oh, don't worry. You are protected. Maybe Boxer will get two of her provisions, but we are not going to give you the five. I thought it was one nation under God, indivisible.

I didn't think when we cross over State lines we are going to have the pregnancy police look in our cars. This is unconstitutional. You don't have to carry the laws of your own State on your back. If you go through another State and there is a speed limit that is different than the one you live in, you obey the laws of the State you are in. That is the law you carry on your back, not the State you left. No one could go gambling in Nevada if we said: If you live in Tennessee and no gambling is allowed, you can't go gamble in Nevada because you will be arrested by the police at the border.

There are different criminal acts and different penalties in different States. Some have tough laws. We know that. States have rights.

We find it interesting how someone only supports the States when they agree with them. But if they don't agree with that State's law, then they try to force another State's law onto the State with which they disagree. I don't know of any other law in history, with the exception of the Fugitive Slave Act, that has required citizens to carry the laws of their own State on their backs. That was back in the days of slavery. If you ran away to another State, you were still stolen property until the court said no.

If you look at the constitutionality issue, if you look at the fact that victims of rape are left in deep trouble, as are victims of incest, if you look at the fact that good, kind, loving people like grandmas and grandfathers could go to jail for helping their granddaughter—no matter how you look at this bill, I believe you should come to the conclusion that this bill has major problems.

Parental consent—you know something, Senator ENSIGN is right. People support the idea that a parent should be contacted by their child and talked to when a child has an unintended pregnancy. We want that so much. I want that so much.

I also want kids to know they could talk to their grandma, they could talk to their grandpa, they could talk to their clergy, they could get help when they need it.

I don't believe the American people support throwing grandma in jail because she embraced her granddaughter and said: My God, I am worried that your parents, your dad might hurt you if you tell the truth. She throws her arms around the granddaughter and protects her and helps her through a crisis.

I believe stopping an abortion is worth preventing a teen from having a lifetime of paralysis, infertility, or worse, and yet there is no health exception in this bill. I think people want us to stop using this issue as a political football.

I know who brought this up. It is brought up by the other side of the aisle every time we have an election.

I hope we can join hands to stop teen pregnancies. We had a chance to do it. But no, we had a vote and we lost that vote. It is unreal. We got a couple of Republicans, but not enough.

I hope the American people are watching this debate. If our goal is to help our young people—and that is the stated goal—there are a lot of ways we could help rather than scaring them to death and making them go it alone in a desperate situation, making criminals of their grandmas and their grandpas and their clergy.

I am sad that the Teen Pregnancy Prevention Act didn't pass as part of this bill. It would have made this bill better. I am glad that we are going to have some coming together on the incest amendment, although as I said, it is only going to take care of two of the five problems we have relating to the bill. But at least we are making a bit of progress.

The bill, to me, is blatantly unconstitutional. It violates our core principles of federalism. It puts caring adults in jail and endangers the health and lives of our most vulnerable teens. On that basis it ought to be defeated.

I believe this bill will pass. I also believe our incest amendment will pass. I think that is important. We should have two votes on that. I think it is important to have those recorded votes so that the message goes to the House that their bill blatantly helps the predators. I call it the ''Incest Predators Protection Act.'' Thank you very much. I know my time is up. I yield the remainder of my time at this time.

Mr. ENSIGN. Mr. President, I yield 15 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I thank the Senator from Nevada, Mr. ENSIGN, for his leadership on this issue and for yielding time and for bringing this important matter before the Senate.

My colleague from California mentioned that this is an election year ploy. But I think the last time this was voted on in the Senate was in 1998. That was a cloture vote. I don't know that there has ever been an up-or-down vote in the Senate. It has been voted on in the House.

I think most people see this particular provision as something that is a commonsense approach to this issue. Obviously, there are a lot of labels that are thrown around in this very contentious debate in our country. But when it comes to this particular issue, the courts have laid out some parameters under which States can operate when it comes to statutes that they adopted that impose conditions and restrictions on abortion. The undue burden requirement that came out of the Planned Parenthood v. Casey decision many years ago created this scenario where if there is not an undue burden, that statutes enacted by States can impose restrictions. And many States have done that.

One that many States have adopted is the issue of parental consent or parental notification. In fact, there are about 37 States to date that have adopted in some fashion that particular legislation. Thirty-seven States have enacted statutes imposing legal obligations on pregnant minors to notify or gain the consent of their parents before getting an abortion. S. 403, which we are debating today, does not supercede or otherwise alter any of those laws, nor does it impose any parental notice or consent requirement on any State. These are States that adopted these laws. The bill would only give effect to a State's parental involvement law if that law is constitutional. Therefore, any State parental consent law given effect under this bill must contain a judicial bypass provision which allows the minor girl to petition a judge to waive the parental notification requirement.

Just to give you an example of States that have enacted these types of laws,

my State of South Dakota, for example, requires that a minor under the age of 18 have the consent of one parent or judicial bypass to obtain an abortion. States in my region and neighboring States such as North Dakota, require the same thing, only it requires two parents' consent or judicial bypass. Nebraska requires essentially the consent of one parent or judicial bypass. Iowa requires that a minor must have the consent of one parent or grandparent or judicial bypass. Wyoming requires that a minor under the age of a eighteen must have the consent of one parent or judicial bypass. In Minnesota you must have the consent of two parents or judicial bypass. Montana, again, one parent or judicial bypass.

My point very simply is that the States and State legislatures have found, within their purview, ways that are constitutional to address what is a very gripping issue for the country, one that has created a great deal, obviously, of debate for the past 30 some years, and I suspect will continue to be debated not only here in legislative bodies but in front of the courts.

The courts have laid out a framework, a set of parameters. States have acted accordingly. All this simply does is reinforce those State laws and allow parents to be involved in probably what, without argument, has to be one of the most consequential decisions a teenager will ever make. As a parent of two teenage daughters, we talk about everything. We talk about where our children want to go to college. I have a teenager who is starting college this year. We talk about who they hang out with on a regular basis. We talk about what they wear, obviously, their apparel. We talk about who they date. We talk about who they associate with, all the decisions that they make in their lives on a daily basis. We try to stay very involved and engaged in their lives, for obvious reasons, because that is important as a parent.

I have a 16-year-old who will be a junior in high school. Ironically, in 27 States in this country, my 16-year-old can't get a tattoo without the permission of a parent. In 27 States, my 16-year-old cannot get her body pierced without permission of a parent. Yet we would allow what, arguably, would be the most consequential decision that child could ever make to go without consultation with a parent. It seems to me that common sense dictates, and I think most people around this country would agree, whatever side of this issue they find themselves on, this is a very common sense way to proceed. Allowing someone to essentially bypass a parent and take a minor, a teenager, across the State line to have an abortion is something that crosses not only State lines but crosses the lines of what most Americans would concede makes common sense when it comes to the way we raise our children and the kind of culture we want to have in our country.

I have to say I sure as heck as a parent would not want some other person taking one of my daughters somewhere to have this procedure when the emotional, the health, the medical ramifications of that decision could be so consequential in terms of my daughters, or any daughter, any teenager or any minor's future. I cannot imagine that this does not meet the common sense threshold, the test that most Americans would apply—again, irrespective of what side they find themselves on this particular issue.

If you look at this bill, and ultimately what it is designed to do, there are several things that would happen. I believe, if this act passed, it would substantially cut down on the number of minors who obtain abortions. It has been shown that parental involvement laws can decrease abortions among minors by 8 to 9 percent. Furthermore, Senate bill 403 will likely magnify that effect since minors often cross State lines to evade their home State laws. The bill does not infringe on States' rights. It merely gives teeth to existing State laws. In fact, the Federal Government will prosecute individuals in violation of this act. Senate bill 403 does not mandate individual States to enforce laws which they have not passed.

Additionally, this legislation does not criminalize doctors or the young women who obtain abortions. It prosecutes only those who take minors across State lines in an effort to evade parental involvement laws. In States that do not have parental notification laws, nearly 40 percent of minors keep their pregnancies secret. Since abortion is a major surgical operation, I believe parents need to know if their daughters undergo an abortion so they will be able to help them with any potential complications, including both the physical, emotional, and mental complications that can arise from the procedure. In cases where this would be inappropriate because of an abusive relationship, the judicial bypass is still an option.

Senate bill 403 will help parents keep their daughters out of inappropriate and/or predatory relationships. The American Academy of Pediatrics Committee on Adolescents estimates that almost two-thirds of adolescent mothers have partners over the age of 20. Additionally, in 58 percent of cases where a daughter does not notify her parents of her pregnancy, her boyfriend is the one who accompanies her for the abortion.

Combining those two statistics suggests a substantial number of abortions are obtained in an attempt to avoid statutory rape laws. Underage children cannot obtain an aspirin at school without parental consent, but nothing prevents a minor from being transported from her current State where parental consent is required to another State where she can legally obtain an abortion without any parental consent. That is what this legislation intends to correct. Abortion clinics in States where there are no parental consent laws actually advertise in States requiring parental consent by using ''no parental consent required'' ads.

This legislation is not unreasonable. As I said earlier, 27 States require a minor, a person under the age of 18 today, to obtain parental consent to get a tattoo. Essentially, 27 States also require minors, persons under the age of 18, to get parental consent to get piercings, including ear piercings.

It seems to me, again, as a parent of two teenage daughters, as well as someone who is observing the debate we have in this country over this particular issue, this is a reasonable, commonsense approach, a measure that has been discussed and debated, the constitutionality of it addressed.

My colleague from California, Senator BOXER, said this is unconstitutional. As I said before, the courts have said as long as it does not impose an undue burden, these types of restrictions fit within the parameters of what is constitutional. Furthermore, under the Commerce Clause, the way this particular bill is worded fits within that constitutional framework. I don't think that is a valid argument.

One of the arguments that was made, as well, by my colleague from California had to do with the issue of incest. A judge found Arizona Planned Parenthood negligent for failing to report to Child Protective Services an abortion performed on a 13-year-old girl in foster care. This girl's case dates back to 1998 when she went in for an abortion at a Planned Parenthood abortion facility accompanied by her 23-year-old foster brother with whom she was having a sexual relationship. Planned Parenthood did not notify authorities until the girl returned 6 months later for a second abortion, according to court records.

There are lots of examples that can be used, obviously, to support what this legislation attempts to accomplish. As I said before, this issue has not been debated in the Senate for some time, although I will say it has been acted on by the Congress—not in the Senate but by the House of Representatives. The House earlier this year passed this bill by 270 to 157 or something like that, and had voted in 1998, 1999, and 2002. I was a Member of the House during those years and in every case this legislation passed the House and passed it by very sizable margins.

It would make sense that the House, having acted on it this year, having gotten approximately 270 votes in support, that we have a debate in the Senate and have an up-or-down vote on this legislation which, as I said earlier, I believe is a reasonable, commonsense approach to dealing with what is a very controversial, contentious issue in the country today.

Most Americans would agree that parental notification, parental consent, allowing parents to have involvement,

input, consultation, with a teenager who was pregnant and is considering having an abortion, rather than having that teenager taken across State lines in a way that contradicts the will of the parents, makes a lot of sense. Again, it is an affirmation of parental involvement, parental rights, an affirmation of States rights, for that matter, too, if you look at all the States that have enacted laws. Thirty-seven States have enacted, in some form, this kind of requirement. Whether it is notification of one parent and judicial bypass or two parents and judicial bypass, but, clearly, there is precedent with all the States that have taken steps. This does not circumvent in any way those State laws. It simply affirms those laws in many respects because the States that have acted in a way that would require this kind of a notification, this kind of consent, this kind of involvement on a parental level.

Right now, people who are going around that requirement and going across State lines to have abortion procedures are getting around State laws. This is simply a way of drawing parents into the debate and making sure that, regarding teen abortions in this country, the States have acted accordingly and have adopted statues that require some kind of consent, notification, consultation, that those laws are respected, and, again, that parents' rights are asserted in this process.

I simply add, in closing, my State of South Dakota has this kind of law on the books. This is something a vast majority of South Dakotans would be very supportive of. As someone who is raising teenage daughters, who on a daily basis is conferring and consulting and discussing the decisions they make, the day-to-day decisions they make, I cannot imagine, for the life of me, not having some input, some opportunity to weigh in on an issue of this consequence, that would have the kind of long-term effects—health and emotional effects—on a young girl.

This is about the health of our young girls. It is about the rights of parents. It is about States that have acted in accordance with what the courts have given them authority to do and making sure we are standing behind those States and making sure their laws are enforced.

I hope when we vote on this—and, again, I appreciate the Senator from Nevada for his leadership on this issue—we will get a big vote in the Senate. It is the right vote. It has been a lot of years—8 years. 1998 was the last time we had this debate in the Senate. At that time, we got to a cloture vote, but we did not have an up-or-down vote on the underlying bill.

The substance of this bill needs to be voted on. I hope it will be voted on today, that it will be a big vote coming out of the Senate, and we can put this on the President's desk and have it signed into law, which I believe is what a vast majority, I know a vast majority of South Dakotans would believe, and I believe also a vast majority of Americans.

I yield back the remainder of my time.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

Mrs. FEINSTEIN. Mr. President, I rise today to oppose the Child Custody Protection Act, which imposes criminal penalties on those who help transport a minor across State lines to obtain an abortion if she does not first meet the parental involvement requirements of her home State.

My primary concern with this legislation is that it unnecessarily puts minors' health and well-being in danger. In addition, the language is so broadly written that it has the effect of harshly punishing those adult family members and loved ones who try to help a young woman in a time of need.

In addition to criminalizing the actions intended to assist a young woman with a difficult decision, this bill would create a new civil action where parents can file a lawsuit against the individual assisting the minor this means relatives, teachers, other trusted adults as well as potentially the doctor, nurse or clinic staff all could face civil court action.

As a mother and a grandmother, I would argue that, in a perfect world, young women and their parents should communicate openly about all major decisions, including whether to terminate a pregnancy. And, in fact, many young women do involve a parent in these decisions. However, the reality is that not all young women live in a household where they can turn to their parents. Some young women face physical, sexual or emotional abuse from their parents; some families do not have open, supporting relationships. For these young women, they may be more comfortable confiding in an older sister, aunt, or a grandparent. Yet this bill would turn these trusted relatives into criminals if they helped her seek an abortion. An unplanned pregnancy is upsetting at any age, and this legislation would deprive young women of support when they most need it.

First and foremost, this bill flies in the face of accepted legal precedent. While it reflects a great deal of concern for potential harms and the violation of parents' rights, it ignores the legal rights of young women to choose safe medical care that protects their health.

The legislation lacks an essential, constitutionally required exception in cases where the restriction it places on the ability of a young woman to get an abortion endangers her health. I am very concerned that once again language is being proposed that would omit this essential protection for women and girls.

The bill provides some limited exceptions to its criminal and civil liability by allowing a sister, aunt, grandmother, or friend to help a girl cross a State border to get an abortion if her life was in danger. But it does not protect actions taken if her health was in danger.

First of all, the Supreme Court has repeatedly affirmed that there must be protection for both the life and health of the mother.

The Supreme Court has ruled time and again from Doe v. Bolton, 1973, to Planned Parenthood v. Casey, 1992, to Stenberg v. Carhart, 2000, that any law restricting access to abortion must contain an exception to protect a woman's health.

Most recently, three Federal courts in California, New York, and Nebraska declared the partial birth abortion ban, which was passed by Congress and signed into law in 2003, unconstitutional and permanently enjoined its enforcement.

All three courts concluded that the law was unconstitutional because it lacked an exception to protect a woman's health.

This measure before the Senate today ignores these precedents and demonstrates a complete disregard for the health of young women.

Secondly, in addition to being unconstitutional, this is bad public policy. If a girl turns to her sister to ask for help because she is having complications with a hidden pregnancy how are either of them going to know whether the complication is life threatening or not? Do we really want to create a situation where a girl's sister, aunt, grandmother or friend has to step into the shoes of a doctor and determine whether complications with a pregnancy are life threatening or face criminal and civil charges for helping her? This could occur even if the girl wants to continue her pregnancy but because of health complications cannot.

Does Congress really want to say it is the best public policy to have young women and girls who are in traumatic situations not get medical assistance because it could result in an abortion for a non-life-threatening complication?

Let's be clear, that is the impact of this legislation. I believe it is unconstitutional and bad public policy. A pregnant minor who feels she cannot confide in a parent is already left with few options.

She can seek a judicial bypass. But few young women have the tools to navigate our complex legal system. The legal system is very difficult for the average adult to manage let alone a minor in an extremely difficult and vulnerable position. In addition, the legal system has demands that further restrict a girl's access; for instance, court hours are usually 9 to 5, requiring a young woman to miss school in order to appear in court. And many girls are reluctant to discuss such a personal decision that could involve traumatic experiences with a judge.

She may delay her decision. However, an abortion that occurs later in her pregnancy will be more dangerous and complicated than one that occurs in

the early stages of her pregnancy. She may opt to travel out of State, alone, undergoing a medical procedure with no family or friends there to support her.

She may seek a dangerous and illegal abortion. A pregnant minor who cannot safely tell a parent about her situation faces enough obstacles. We do not need to criminalize well-intentioned assistance provided to her.

I am also concerned that it is not only the young women making a deliberate choice not to tell a parent of an abortion who would suffer under this bill. Access to abortion is declining in this country, for women of all ages. Eighty-seven percent of counties no longer have a doctor who will perform an abortion. For many women, the most convenient provider is across State lines.

An older sister or aunt accompanying a minor to the nearest provider may unwittingly become a criminal. Even if neither woman intended to evade parental consent laws, this act of family support would be criminalized. A grandmother or sister could have no idea that she is violating a Federal law when she helps a family member access legal medical care.

But proponents of this legislation would like you to believe that this debate is not about young women who can no longer find a doctor who will provide full services in their home State. To them, this is not about the young women who, for whatever reason, need to look beyond a parent for adult support.

While supporters of this bill are correctly horrified by stories of girls kidnapped by older boyfriends and forced into having abortions they did not want, this legislation does not create a limited solution to fix that problem. In fact, in many cases the actions in these circumstances are already illegal. Laws prohibit kidnapping. Laws prohibit statutory rape. Medical ethics require that physicians obtain informed consent from the patient before performing any medical procedure. People who violate these laws can already be prosecuted. I welcome a debate on policies that will crack down further on sexual predators who abuse young women.

If there is a problem that current laws are not being enforced, then let's address that; if there is a problem that these laws are not strong enough, then let's address that, but let's not criminalize behavior of a loving family member, friend, or confidant who is trying to help a young girl in a traumatic time in her life.

This bill is not about protecting vulnerable young women from crime. It is about limiting their access to a constitutionally protected medical procedure. This legislation does reflect a great deal of concern for potential harms and the violation of rights—of parents.

Under this proposal, a parent has legal recourse if his or her supposed ''right'' to stop their daughter's abortion is violated. Parents can sue to collect damages.

This bill, in fact, could create a situation in which a mother sues a grandmother for helping her granddaughter exercise her right to choose. Yet it leaves a young woman with no recourse for the violation of their right to seek and receive safe medical care of her choice.

This legislation also runs counter to basic notions of federalism, linking a young woman to the law of her home State no matter where she may be living. No other State laws follow her to college or summer camp.

In this country, State laws do not extend beyond State borders. When residents from my home State of California travel to Nevada for vacations, they are allowed to play the slot machines, even though gambling is illegal at home. There is no reason why laws should reach across State lines to restrict access to a safe and legal medical procedure.

I wish this were a perfect world. I wish we could legislate that every child has a loving and stable parent to guide him or her through the trials of adolescence. I wish we could legislate that every family talk openly and honestly about the risks of sexual activity.

But we cannot. Parental consent laws do not create these idealized families. Instead, they further burden those that are already troubled. A young woman facing an unplanned pregnancy in an unstable situation must be able to turn to another trusted adult—without the fear of subjecting the adult to Federal criminal liability.

The very fact that we are having this debate is a clear demonstration of the leadership's misplaced priorities. They claim this is a women's health issue, a family values issue.

We have only a few legislative days remaining this year. There are so many other problems we should be addressing.

We should be debating ways to prevent these difficult situations from arising in the first place. We should be discussing policies that promote honest information about reproductive health and ready access to contraceptives. No teen should face an unplanned pregnancy. Those that do must not face it alone.

I urge my colleagues to join me in opposing this bill that endangers young women's health and turns their relatives into criminals.

Mr. KERRY. Mr. President, today the Senate considered legislation that proponents claim will reduce the number of abortions. But in reality everyone knows this legislation will do little to lower the number of abortions, and it will do even less to protect the role of parents in our society. In a move that is all too typical of the coarsening partisanship of this city and of this Congress, instead of bringing before the Senate legislation that could actually reduce the number of abortions, the Senate Republican leader decided to just check another on the Republican ''To Do'' list before election day this November.

It is sad that the Senate has missed this opportunity to enact legislation to reduce teen pregnancy. Every Senator agrees that we should do more to reduce incidences of teen pregnancy. And yet the bill debated in the Senate today is little more than a political stunt that will do little to reduce the number of abortions.

This is not the first time we have faced legislation like this which reflects a political calculus, not a policy consideration. In 1998, just prior to that year's election, the Republican leadership brought forward a similar bill. I opposed that legislation as well, as it failed to take meaningful steps towards reducing abortions and because it threatened to endanger victims of rape, incest, or abusive family situations.

If the Senate Republican leadership were really serious about reducing the number of abortions among young women, they'd get serious about efforts to prevent unwanted pregnancies in the first place. Research shows that reducing unintended pregnancies significantly reduces the rate of abortion. And the good news is that we know what works to prevent unwanted pregnancies in the first place. In fact, the amendment offered by Senators LAUTENBERG and MENENDEZ earlier today, which I cosponsored, would take meaningful steps to reduce teen pregnancy. Communities need to provide education for our children so they understand the serious consequences of their decisions; we need to support effective, existing after-school programs that provide academic enrichment for at-risk kids; and we need to invest in new efforts to help reduce teen pregnancy.

If the Senate leadership were really serious about reducing the number of abortions, they would get serious about providing support for foster care and adoption. Instead, last year this Congress limited the number of children eligible for foster care and reduced funding for state foster care systems. What kind of family values does that represent?

If the Senate leadership were really serious about reducing the number of abortions, we would address the problems that working families face in raising their children. We would increase the minimum wage and extend the earned income tax credit so that the decision whether to have an abortion is not based on whether there is enough money to support the child.

This is where we should be focusing our energy—on providing families with the tools they need to raise a family; on providing mothers with the care they need to carry out their pregnancies, and on educating our teens about the consequences of their actions.

But then again, the Child Custody Protection Act isn't intended to reduce

teen pregnancies. In fact, it accomplishes very little except to risk taking a very young victim of rape or incest—a victim of an abusive family situation—someone who is just plain scared—and putting someone they turn to at risk of criminal prosecution, jail time and fines if they decide to help a minor with one of the most painful decisions a person could be asked to make. It targets the most vulnerable minors—those needing the most help because of poor family relations or even serious abuse—and makes it more difficult for them to receive critical advice and support.

Is it right to punish a victim of incest by forcing her to get consent from the very person who impregnated her? What rational person wouldn't agree that she has been victimized enough already? Is it really smart, or fair, or right to punish and remove the caring adult who a young woman in this situation is relying on to get her through such an ordeal? Is it right to consider sending a grandparent, a clergy member, a doctor, or a counselor to prison if a terrified young woman has nowhere else to turn?

This discussion isn't about most families. If one of my daughters were in a terrible situation, I believe they could and would turn to me or to their late mother. I know they could. I think every one of us in the Senate know our children would turn to us in a time of desperation. That is how we raised our kids. Ideally all young women facing an unplanned pregnancy will turn to their parents for guidance when faced with this kind of decision. And in most cases they do. In fact, one study found that the overwhelming majority of parents in states without mandatory parental involvement laws knew of their child's pregnancy. But 30 percent of young women who did not tell their parents about their decision did so out of fear of violence in the family or fear of being forced to leave home. What does that tell you about these situations? It tells you this bill does not address the real-life tragic situations in which awful decisions are being made.

This bill is not the way we should be addressing the problem of unwanted pregnancies. We should not be criminalizing grandparents or clergy or doctors who try to help young women in horrible situations. We should not be criminalizing that small percentage of people willing to accompany a minor-in-need to obtain an otherwise legal abortion.

Here's the bottom line: If this bill had simply made exceptions for young women in abusive situations—like rape, or incest—and ensured that children who were endangered if they turned to their parents would have a responsible, caring adult to turn to, I would have voted for it. And I guarantee so would all of my colleagues. Mr. President, 100 to 0, that's the kind of statement we could have made—but that kind of unity was sacrificed on the altar of Republican wedge-issue politics.

Of course, parents should be fully involved in all decisions regarding their children, but refusing to take into account possible family dysfunction, including abuse or incest, would be both unconstitutional and unacceptable. It would be dangerous. It would be anything but pro-life. Not every child is lucky enough to have a supportive family, and I can't imagine that any person would fail to understand that it just doesn't make sense for a 16-year-old who has been raped or abused by a parent to get consent from that abuser. There must be a way to bring a supportive and nurturing adult into that difficult decision. This bill forecloses that possibility.

Mr. CORNYN. Mr. President, just last week the Senate unanimously approved landmark legislation that will help protect American children from violent sexual predators and other such criminals who would do them harm.

I proudly cosponsored and worked to strengthen that bill—The Adam Walsh Child Protection and Safety Act of 2006 because the States needed, and asked for, the Federal Government's help to detect and deter violent sexual predators. The nationwide sex offender database and registration requirements are critical components that help prevent violent sexual predators from slipping underground and out of sight. Indeed, the Senate's passage of the Adam Walsh Act was a banner day for the safety of our children.

And today, Mr. President, the Senate will consider another important measure to protect the health and safety of American children—in particular, female minors. I am referring, of course, to S. 403, the Child Custody Protection Act. I am proud to join Senator ENSIGN and a bipartisan group of over 40 Senators that have cosponsored this legislation.

This long-overdue proposal amends the Federal Criminal Code to prohibit the transportation of a minor across State lines—without parental consent or notification—in order to obtain an abortion. To date, at least 37 States have laws on the books that require a minor girl who wishes to have an abortion to notify or obtain the consent of her parents. But let's be clear: this bill neither establishes a Federal parental consent law, nor supersedes existing State laws. It merely reinforces the prerogatives of those States that have enacted parental notification and consent laws.

So the question before the Senate today is a straightforward one: Should Congress safeguard the legislative choice made by those States that have chosen to preserve the role of parents and guardians in the health and medical decisions of their children—particularly, their minor daughters? I believe that we must safeguard State prerogatives by protecting parental rights.

If a State has on its books a constitutionally sound parental notification or consent law, parents in that State should not have to fear that their minor daughters can legally be driven into a neighboring State to receive an abortion.

This is not a hypothetical concern. The New York Times reported that ''Planned Parenthood in Philadelphia [Pennsylvania has a parental consent law] has a list of clinics, from New York to Baltimore, to which they will refer teenagers, according to the organization's executive director . . . .''

Even more disturbing, there is evidence that abortion clinics in States bordering Pennsylvania—States that don't have parental involvement laws—will advertise the lack of such requirements and use it as a selling point in their advertisements directed at minors in Pennsylvania.

I also worry that interstate transportation of minors to have abortions may be used to conceal criminal activity—like statutory rape. I, for one, believe that we ought to make it a Federal crime for an adult male who impregnates a young girl to transport her out of her home State—without the knowledge and consent of her parents—in order to have an abortion. That is just common sense.

Mr. President, this legislation is not about abortion rights. It is about protecting the health and safety of children and preserving the role of parents in decisions concerning their child's medical care.

I urge my colleagues to support this bill.

Mr. KYL. Mr. President, as a cosponsor of the Child Custody Protection Act, I am pleased to see that this legislation is finally being considered and hopeful that it will be passed quickly.

S. 403 makes subject to fines or imprisonment up to 1 year anyone who ''knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides.''

The provision I cite is an admirably clear piece of legislative language. It not only makes a salutary change in existing law; it provides an convincing explanation as to why it is needed.

Notwithstanding the abortion debate's notoriously divisive character, parental involvement statutes constitute an area of near-consensus around which pro-life and pro-choice Americans can come together.

Forty-five States—including my own—have enacted statutes aimed at ensuring that parents of minor girls are not deprived of the opportunity involved in this most sensitive decision, one with profound implications for their daughters' physical and mental health.

Public opinion polls demonstrate overwhelming support for the proposition that in all but the most extraordinary circumstances—in which instances, the State statutes in question

provide for a judicial bypass—parents must be involved in decisions affecting the health of their minor children.

Unfortunately, the public record now provides ample evidence suggesting that these laws are frequently circumvented—often by individuals who by facilitating an abortion may be covering up evidence of a crime: statutory rape.

When abortionists buy advertisements in the yellow pages directories serving communities in neighboring States with parental involvement statutes, and when they adorn the ads with helpful reminders that their services can be obtained without parental consent, both the authority of State lawmakers and the sanctity of the parent-child bond are mocked.

As a father and grandfather, I believe it is vital that the Senate today draw a line against this egregious manifestation of the abortion culture. Colleagues who support a liberal abortion regime but claim that they want the practice to be rare should welcome this opportunity to support a unifying commonsense measure that helps give effect to public policies embraced by legislators of both parties in the States.

Mr. NELSON of Florida. Mr. President, I will vote in favor of the Child Custody Protection Act.

I support the Florida law which was enacted after voters approved an amendment to the Florida Constitution. The law requires that Florida parents must be notified prior to their minor child obtaining an abortion, and it provides that a judge can grant an exception.

This act will help ensure that minors in Florida consult with their parents before obtaining an abortion in another State, while also preserving the ability of minors to seek a judicial waiver when that notice is not in the best interest of the minor.

The ultimate goal must be to prevent teen pregnancy so that none of our children find themselves in these difficult situations, and thus I also supported the amendment to provide Federal grants for programs that educate minors on the use of contraceptives and abstinence.

Mr. BYRD. Mr. President, it has always been my firm belief that minors should be required to notify their parents prior to seeking an abortion. I cannot help but believe that in nearly every case, young women do themselves, their babies, and their families well to seek guidance from their parents or legal guardians before making such a serious decision. Most parents honestly do have their daughters' best interests at heart. Consequently, how can parents not be informed when their children are confronted with making one of the most critical decisions of their lives, one which carries with it such extraordinary, expensive, and irretrievable consequences?

I have a long history of support for parental notification in such difficult circumstances. In 1991, I supported legislation that would have required entities receiving grants under Title X of the Public Health Service Act to provide parental notification in the case of minor patients seeking abortions.

While I support parental notification, I would also observe that we, as a nation, must work harder and do more to ensure that young women understand the consequences of unwanted pregnancy before they find themselves in such a predicament. We need to return to a time when abstinence was respected, not denigrated. A time when young men and women were praised and rewarded spiritually, emotionally, and financially—for doing the right thing.

Today, little girls are encouraged to become sexual at younger and younger ages by a consumer society that cares more about what it can sell than what it can teach. The entertainment culture, with its ''sleaze'' does all Americans, and particularly young women, a despicable disservice. Repulsive lyrics and morally offensive videos degrade women to the point where little girls as young as 10 or 12 years of age come to believe that their only real value lies not in themselves but in bearing the child of a teen-aged boy. How truly sad.

We all recognize that the family is, and has been, in crisis. We would all like to see a reduction in unwanted pregnancies and abortion. No one is pro-abortion. But the question remains, what are we doing to prevent these unwanted pregnancies—meaning what are all of us together, on both sides of the aisle, doing to prevent them? Aren't there more creative ways in which we could be bolstering the self-esteem of young women?

Let us not forget that the future of humanity passes through the family, and that each of us must, in our own way, fulfill our duty to preserve the family. As John Kennedy once put it so succinctly and so beautifully, ''On Earth, God's work must truly be our own.''

Mr. VITTER. Mr. President, I rise today in support of the Child Custody Protection Act, which prohibits transporting a minor across State lines to obtain an abortion if doing so abridges a parental notification or consent statute in the State in which the minor resides. The bill also provides an exception for cases where an abortion is necessary to save the minor's life. I am proud to say that I am a cosponsor of this bill and I supported it in past Congresses.

One of the most important roles of parents is to provide guidance and comfort to their children. Parents are more mature and possess the wisdom of experience that children simply cannot possess. In no other circumstance is the need for parental guidance more important than when a child requires medical care. Who is in a better position to provide a child's relevant medical and psychological history and other valuable medical information than a parent? Not only has the Supreme Court recognized the importance of parental rights with regard to the ''care, custody, and control of their children'' as ''perhaps the oldest of the fundamental liberty interests,'' they have also acknowledged the importance of parental guidance and consent when a child is faced with a difficult decision by stating ''the law's concept of family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions.''

At a time when a school nurse cannot even administer aspirin to a child with a headache without parental consent, how can we allow a child to have an abortion, a major medical procedure with potentially deadly consequences, without parental consent? I can think of no other time when parental guidance and consent is more important than when that parent's minor daughter is pregnant and contemplating abortion. A minor girl, who is undoubtedly under incredible stress, does not have the maturity to make the decision to have an abortion on her own. And, it makes matters worse when the girl receives pressure to have an abortion from the father, the father's family, or others.

As a father, it appalls me to learn that oftentimes older adult males pressure young mothers to have an abortion without telling anyone and transport these young girls into States without parental consent laws to hide instances of statutory rape. Studies show that the majority of today's teenage mothers are being impregnated by adult men. One study of 46,500 schoolage mothers in California found that two-thirds of the girls were impregnated by adult males, with the median age of the father being 22 years old. The fact that many of these adult males could be charged with statutory rape creates an incentive for them to transport young girls across state lines to have an abortion to avoid criminal prosecution.

Mr. President, the pro-abortion lobby has come out in full force against the Child Custody Protection Act saying that it infringes upon a girl's right to have an abortion. I have two major objections to that argument. First, I do not believe that a minor child has the right to an abortion without her parents' consent. At a time when children cannot even be given aspirin without parental consent, they should not be able to undergo a major medical procedure with potentially deadly consequences without parental consent. Second, the Child Custody Protection Act is not about the right to have an abortion; it is about protecting the rights of parents and the well-being of children. It is commonsense legislation that says if one State has established a legal principle for its residents, neighboring States should not discourage those residents from following that principle. This is hardly a radical or

extreme proposal; rather, it is necessary, constitutional, and it is carefully and narrowly drawn. I hope that my colleagues can support this very important, commonsense legislation, which protects our most vulnerable citizens—our children.

Mr. HATCH. Mr. President, this morning we are continuing our discussion of the Child Custody Protection Act, S. 403. This is an appropriate debate, and it comes at an appropriate time.

Last week, the Senate passed the Adam Walsh Child Protection and Safety Act. That important bipartisan bill, which the President is expected to sign this week, will empower the Federal Government to step up the fight against sexual predators of children.

The bill we passed last Thursday is a serious bipartisan achievement, and for good reason. Republicans and Democrats alike can agree on the need to protect minors from abuse. That same purpose, the desire to protect children, is what motivates the Child Custody Protection Act, and my hope is that we can come together on this bill as well, Republicans and Democrats, and pass this legislation.

The American people have spoken. Our States have spoken. Though the media might not always hear the message, Americans are quite unified, and have been for a long time, on the issue of abortion. Supermajorities of the American people think that some regulation of abortion is appropriate. Nowhere is this more obvious than on the issue of parental consent and notification laws.

Most Americans understand that a parent or a guardian should be involved in this decision. The Child Custody Protection Act will give Federal support to State laws requiring this involvement, laws that are too often circumvented when young girls are taken across State lines to obtain an abortion, often with the assistance of the predatory men responsible for their pregnancies.

These actions are terrible for families and young women. They are a danger to a young woman's health and to her spirit. And, indeed, the involvement of a parent or guardian is critical when a young woman is making a choice of this magnitude, and we should do our part to support these parental involvement laws.

This bill does so by making it a Federal crime to transport a minor across a State line to obtain an abortion that would not be permitted absent parental involvement in the State where the minor resides. This is a limited and a reasonable bill. It specifies that neither the minor nor a parent can be prosecuted or sued for violation of the act. It also provides defendants in a prosecution or civil action an affirmative defense if they believed the required parental notice or involvement took place. Finally, it creates a private right of action for the parent or guardian whose rights are violated by a person who violates the act.

This is a balanced bill. And my hope is that my colleagues will support it.

Forty-four States have enacted laws that require some level of parental involvement in a minor's decision to obtain an abortion. Parental involvement laws are not a divisive issue. They are reasonable regulations. At many middle schools and high schools, you cannot get an aspirin from the school nurse without permission from your parents. Would it really make sense to allow a young girl, perhaps only 14 years old, to obtain an abortion without her parents' involvement?

The liberal pro-abortion interest groups routinely tell us that women must have completely unfettered access to abortion throughout their pregnancies. And they typically give two reasons. First, this is a private, medical decision between a woman and her doctor. And second, this is a moral choice that the woman should be able to make without any interference at all. These principles are taken to extremes by these groups. They lead to opposition of almost any regulation of abortion, including informed-consent laws, and even partial-birth abortion. Parental involvement regulations are commonsense and widely supported by the American people. But the reasoning of these interest groups leads them to a position of abortion absolutism—there can be no interference at any time with the decision to undergo this medical procedure.

I disagree with these arguments. Even so, taking these groups on their own terms leads me to believe that they should actually support parental involvement laws. After all, if abortion is a medical procedure, do we really want minors electing invasive medical procedures without a parent or guardian knowing about it? And if the decision to have an abortion is a profound moral choice, do we really want a child to make that choice without consulting with the parents who are responsible for teaching and raising that child? Of course not. And so the American people have reasonably, and responsibly, endorsed with considerable bipartisan support, the parental involvement laws that exist in 44 States.

Recently, my home State of Utah passed its own law. It is a good law. And it is a careful law. My State requires that before a minor obtains an abortion there must be notification of, and consent by, a parent or guardian. Our parental consent requirement prohibits a doctor from performing an abortion without first obtaining the written consent of a parent or guardian. And consistent with the Supreme Court's requirement that some judicial bypass be included in a parental consent statute, Utah allows a minor to obtain an abortion without the consent of a parent or guardian if a court finds by the preponderance of the evidence that the minor has given informed consent and is mature enough to be capable of giving her informed consent or that the abortion would be in the minor's best interest. That is a reasonable balance. The interest groups that oppose any and every restriction on abortion always tell us that this is an important choice. Well, if it is an important choice, I believe we should require that a minor's choice be an informed one.

Utah law also requires that a doctor, prior to performing an abortion, notify a parent or guardian. Again, this is reasonable. Why would we allow a young woman to undergo a medical procedure without first notifying those charged with her well-being? We would not allow it for a routine checkup, much less any other invasive surgical procedure. And Utah's legislators were careful in the way they went about this. They knew that in certain circumstances, a young woman might not want to notify her parents. For that reason, there are generous exceptions to this notice requirement.

If a medical emergency exists, the notice requirement is waived. If the physician reports to the proper State agency that the pregnancy occurred through incest, or if the child is a victim of abuse, the parent responsible for the physical or sexual abuse need not be notified. And if the legal parent or guardian has not assumed responsibility for the young girl's upbringing, that parent or guardian need not be notified.

Utah's citizens are not unique. As the citizens in most other States have, Utahns have determined that some level of parental involvement in this process is an important one. The interest groups disagree. And as a result, there is some opposition to this commonsense bill.

Here is the bottom-line. Forty-four States have parental involvement laws. In my opinion, some of those State parental involvement laws are ineffectual, but in 26, parents are effectively guaranteed the right to parental notification or consent. Yet with minor children, too often they are being taken across State lines, to a State with a more liberal abortion policy, to obtain an abortion without their parents' involvement. Taking a minor across State lines without her parents' knowledge? Most people would call this kidnapping. And in many cases, the actions come close.

I want to thank my colleague from Alabama, Senator SESSIONS, for chairing a hearing in the Judiciary Committee on this subject in the 108th Congress. The hearing was very informative. This is what we learned from the testimony presented there:

The American Academy of Pediatrics Committee on Adolescence has found that ''[a]lmost two thirds of adolescent mothers have partners older than 20 years of age.''

The National Center for Health Statistics concluded that ''among girls 14 or younger when they first had sex, a majority of these first . . . experiences were nonvoluntary. Evidence also indicates that among unmarried teenage

mothers, two-thirds of the fathers are age 20 or older, suggesting that differences in power and status exist between many sexual partners.''

In a study of over 46,000 pregnancies by school-age girls in California, researchers found that ''71%, or over 33,000, were fathered by adult post-high-school men whose mean age was 22.6 years, an average of five years older than the mothers . . . Even among junior high school mothers aged 15 or younger, most births are fathered by adult men 6 to 7 years their senior. Men aged 25 or older father more births among California school-age girls than do boys under age 18.''

I could go on, and I want to thank Professor Teresa Collett of the University of St. Thomas School of Law for putting these statistics together in her testimony. They are important. They remain uncontroverted by those opposed to this bill. And they tell an important story.

Many thousands of teenage pregnancies are caused by predatory males, many years the girl's senior, who should be prosecuted for statutory rape. Let's be clear. Many thousands of teenage pregnancies are caused by felonious activity—scared and pregnant young girls; wounded and abused by these sexual predators.

And parental involvement laws go a long way toward making sure that people become aware of this abuse. Yet currently, it is too easy for these predators to circumvent these laws.

We have heard of older men, or their mothers, or their friends, who take these vulnerable young girls across State lines to get an abortion, and get rid of the evidence of the crime. And then when these girls are dumped back at home, those who care for them and love them are oblivious to what they have been through. This is not only physically dangerous. It is a threat to the spirit of a wounded and confused young woman.

This is not some hypothetical situation. In the Senate Judiciary Committee, we heard from Joyce Farley of Dushore, PA. In 1995 her daughter, Crystal, was raped and impregnated by a 19-year-old man whose mother then took Crystal for an abortion into the State of New York.

This was not a decision for this man, or his mother to make. These people were not interested in making the right decision for Crystal. They were making a decision that was in the best interests of the man who raped this child.

The Child Custody Protection Act would protect these young women. It would protect the rights of parents.

The decision to obtain an abortion is an important one. It is a medical decision, but it is also so much more. It is a decision that will impact a woman for the rest of her life. And it is a decision that a minor should, in most cases, make with the involvement of a parent or a legal guardian.

This important bill that my colleague from Nevada, Senator ENSIGN, has introduced will go a long way toward discouraging the abuse that often leads to teenage pregnancy, toward protecting minors from predatory males, and toward protecting the constitutionally recognized right of States to involve parents in these important decisions.

I look forward to this debate. There should be some bipartisan consensus on this issue, and my hope is that we will reach one. This is a bill that is worthy of our support. It protects the rights of parents that have been recognized by the States that we represent.

We should do our best to support those rights. I encourage my colleagues to support this bill.

Mr. LEAHY. Mr. President, I am disappointed that the Senate is bypassing normal procedure to debate a controversial bill on which the Senate refused to proceed 8 years ago. That was the last action taken on this kind of bill. Since then 8 years have passed. Our Constitution has not changed. I am thankful for that. The complex issues and federalism concerns that so many Senators voiced 8 years ago still remain. So if anything has changed, it is difficult to know. Instead of regular order and allowing the committee of jurisdiction to gather the facts, to consider the legislation, to amend it or reject it, we find ourselves proceeding almost helter-skelter on what is a very serious matter with important personal, privacy and legal implications.

It is a striking contrast that we turn to this bill after last week's bipartisan unifying effort in which we took four months to hold nine hearings and work with our counterparts in the House to reauthorize key provisions of the historic Voting Rights Act of 1965. If that process exemplified the Senate at its best, this proceeding stands in sharp contrast. The press is reporting that the Senate is being required to turn to this bill at this time as part of the Republican-designed run up to the elections. Having spent time on a constitutional amendment that would have cut back on the Bill or Rights, having wasted precious time seeking to write discrimination into the Constitution, this is next on their campaign checklist of items needed to rev up their voting base. In fact, having just seen the President reject our efforts to authorize Federal funds for vital stem cell research with his first official veto, they now rush to reopen the abortion debate. I am a little surprised they are not seeking another vote on some further intervention into the circumstances of Terri Schiavo and her family.

In fact, the bill before us, like the legislation rushed to the floor to intervene in Florida's legal system in the case of Terri Schiavo, is another case of congressional overreaching and of trying to federalize decisions that previously have been left to the States. I unequivocally support the goal of fostering closer familial relationships and the value of encouraging parental involvement in a child's decision about how to respond to an unplanned pregnancy. We all do. That is not the issue. I thank Senators BOXER, MENENDEZ, LAUTENBERG, and FEINSTEIN for bringing amendments seeking to make this legislative consideration worthwhile and beneficial to those in need of government help, rather than an imposition of the heavy hand of government intervention. I support their amendments.

The underlying bill, however, raises challenging issues of federalism that caused many of us to reject it before and will lead me to oppose it, again. I find it ironic that many of the same people who insist that fully considered State laws on civil union and civil partnership and marriage not be respected, are those who in the context of this legislation insist that State laws be held to bind people even when they travel outside their States, and that Federal criminal law become the enforcement mechanism to ensure that they are binding.

The underlying bill does little to strengthen communication and trust in families. While I know as a father that most parents hope their children would turn to them in times of crisis, no law will make that happen. No law will force a young pregnant woman to talk to her parents when she is too frightened to do so. This bill does not increase the perception of choices for such young women. Rather, it is likely to drive young women who are afraid to seek help from their families away from their families and greatly increase the dangers they face from an unwanted pregnancy.

The nature of our Federal system revolves around States maintaining their historically dominant role in developing and implementing policies that affect family matters, such as marriage, divorce, end-of-life choices, child custody and policies on parental involvement in minors' abortion decisions. I respect that. I respect each State to define those family relationships and have resisted Federal intrusion into those matters. Congress should not dictate the nature of family relationships. I had hoped we learned our lesson on this when the American people reacted with outrage to the President and Congress intervening in the Terri Schiavo matter.

Twenty-six States have adopted parental consent or notification laws that are currently enforced and meet the bill's definition of a ''law requiring parental involvement in a minor's abortion decision.'' That means that the remaining States—the 24 States that include Vermont—either have opted for no such law, or have decided on a State law that allows for the involvement of adults other than a parent or guardian in the minor's reproductive decision. While I respect the 26 notification law States, I also respect the 24 other States and the privacy rights guaranteed by the Constitution. The direct consequence of this bill

would be to federalize the reach of the most constricted notification laws and to override the policies in the remaining States.

It is telling that the bill does not expressly establish a Federal parental consent requirement. It does not directly override the various State laws in this area of traditional State interest. Instead, it seeks to do indirectly what it will not and likely could not do directly. Doing so makes it no less an abuse of Federal power. The underlying bill would use the power and resources of the Federal Government to force favored States' laws into effect in the other States that have made other legislative choices. It would impose a law that a State has chosen not to adopt on that State, regardless of the choice its people have made through the legislative process. Most troubling of all, it would create a Federal crime as a mechanism for such Federal interference. It is an affront to federalism and an exercise in heavy-handed overcriminalization.

Make no mistake: Despite the proponents' contention that this bill does not attempt to regulate any purely intrastate activities, the effect of this bill would be to impose the policies of certain States on the remaining ones. Just because some in Congress may prefer the policies of certain States over those in the others does not mean we should give those policies Federal enforcement authority across the Nation. Doing so is not only wrong, it sets a dangerous precedent.

An example apart from family law: Should residents of States that prohibit gambling not be able to travel to Las Vegas or Atlantic City or the many other places that now allow it? It is the nature of our Federal system that when residents of a State travel to neighboring States or across the Nation, they must conform their behavior to the laws of the States they visit? When residents of each State are forced to carry with them only the laws of their own State, we will have turned our Federal system on its ear.

Congress has wisely repealed laws in the past that require residents of each State to carry with them only the laws of their own State. We saw this when the Thirteenth Amendment to the Constitution was passed. That outlawed slavery and repealed article IV, section 2, paragraph 3 of the Constitution, which authorized return of runaway slaves to their owners. That constitutional authority and such laws as the Fugitive Slave Act of 1793 enabled slave owners from slave States to reclaim slaves who managed to escape to free States or territories. None of us—and certainly not the sponsors of this legislation—would ever condone slavery. Those discredited laws and the infamous Dred Scott case are about the only precedent we have for a bill like this that would use the force of Federal law to enforce a particular State's laws against people wherever those people may travel.

I was proud in November, 2004, when the Senate unanimously passed a resolution sponsored by Senators MCCAIN, HATCH, KENNEDY, and REID to express the sense of the Senate that John Arthur ''Jack'' Johnson should be pardoned for his ''crime'' of transporting a white woman across State lines for ''an immoral purpose.'' The injustice done to Jack Johnson was something we all joined to try to correct many years later. Let us not allow the misuse of Federal power, again.

This bill would sweep into its criminal and civil liability reach extended family members, including grandparents or aunts or uncles, who respond to a cry for help from a young relative by helping her travel across State lines to terminate a pregnancy. In addition to close family members, any other person to whom a young pregnant woman may turn for help, including health care providers and religious counselors, could be dragged into court and face prison time on criminal charges. Rev. Doctor Katherine Hancock Ragsdale once helped a stranger, a 15-year-old girl. The girl feared for her safety if her father learned of her pregnancy, and she had no relative to turn to for help. She was alone and desperate. Should offering comfort subject Reverend Ragsdale to Federal prosecution?

The purported goal of this bill, to foster closer familial relationships, will not be served by threatening to throw into jail any grandmother or aunt or sibling who helps a young relative. The result of this bill will be to discourage young women from turning to a trusted adult for advice and assistance. Instead, these young women may be forced then into the hands of strangers or into isolation.

Keep in mind what this bill does not do. It does not prohibit pregnant minors from traveling across State lines to have an abortion, even if their purpose is to avoid their parents. The perverse effect of the bill, if it is to be followed, would be to encourage more young women to travel alone to obtain abortions. I will not support an effort that may lead back to the days of ''back alley'' abortions. How can anyone view these outcomes as desirable or fostering closer familial ties? Young pregnant women who seek the counsel and involvement of close family members when they cannot confide in their parents—for example, where a parent has committed incest or there is a history of child abuse—would subject those same close relatives to the risk of criminal prosecution and civil suit, if the young woman subsequently travels across State lines to terminate her pregnancy. Is that really what we want? We should not compound these most difficult circumstances by taking actions that if successful will succeed in isolating young pregnant women, forcing them to run away from home or pushing them to seek protection from strangers at a time of crisis.

No law will force a young pregnant woman to involve her parents in her abortion decision if she is determined to keep that fact secret from her parents. No law can force a familial connection that does not exist. According to the American Academy of Pediatrics, the percentages of minors who inform parents about their intent to have abortions are essentially the same in States with and without notification laws. The President remarked just last week that ''governments can't change hearts.'' States have found that there are families in which parental notification laws are not effective.

While doing nothing to foster familial relationships, this bill would do serious damage to important federalism and constitutional principles. The underlying bill imposes significant new burdens on a woman's right to choose and impinges on the right to travel and the privileges and immunities due under the Constitution to every citizen. Peter J. Rubin of Georgetown University Law Center and Laurence H. Tribe of Harvard Law School have argued that this language, adopted by the House in 2002, violates both ''the rights of States to enact and enforce their own laws governing conduct within their territorial boundaries, and the rights of the residents of each of the United States . . . to travel to and from any State of the Union for lawful purposes, a right strongly reaffirmed by the Supreme Court.'' These leading constitutional scholars contend that the bill as drafted is unconstitutional. I will ask that a copy of their analysis be printed in the RECORD, at the conclusion of my statement.

For all these reasons—legal, constitutional, practical and institutional—I will vote against the underlying bill. I urge all Senators to respect federalism, the Constitution and families by rejecting this attempt to politicize fundamental decisions and family relationships.

Mr. President, I ask unanimous consent that a copy of the aforementioned analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 5, 2001.

To: United State House of Representatives Committee on the Judiciary, Subcommittee on the Constitution

From: Laurence H. Tribe, Tyler Professor of Constitutional Law, Harvard University Peter J. Rubin, Associate Professor of Law, Georgetown University

Re H.R. 476 and Constitutional Principles of Federalism

INTRODUCTION

We have been asked to submit our assessment of whether H.R. 476, now pending before the HOUSE, is consistent with constitutional principles of federalism. It is our considered view that the proposed statute violates those principles, principles that are fundamental to our constitutional order. That statute violates the rights of states to enact and enforce their own laws governing conduct within their territorial boundaries, and the rights of the residents of each of the United States and of the District of Columbia to travel to and from any state of the Union for lawful purposes, a right strongly reaffirmed by the Supreme Court in its recent landmark

decision in *Saenz* v. *Roe*, 526 U.S. 489 (1999). We have therefore concluded that the proposed law would, if enacted, violate the Constitution of the United States.

H.R. 476 would provide criminal and civil penalties, including imprisonment for up to one year, for any person who ''knowingly transports an individual who has not attained the age of 18 years across a State line, with the intent that such individual obtain an abortion. . . [if] an abortion is performed on the individual, in a State other than the State where the individual resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law in the State where the individual resides.''

H.R. 476, §2 (a) (proposed 18 U.S.C. §2431(a)(1) and (2)). In other words, this law makes it a federal crime to assist a pregnant minor to obtain a lawful abortion. The criminal penalties kick in if the abortion the young woman seeks would be performed in a state other than her state of residence, and in accord with the less restrictive laws of that state, unless she complies with the more severe restrictions her home state imposes upon abortions performed upon minors within its territorial limits. The law contains no exceptions for situations where the young woman's home state purports to disclaim any such extraterritorial effect for its parental consultation rules, or where it is a pregnant young woman's close friend, or her aunt or grandmother, or a member of the clergy, who accompanies her ''across a State line'' on this frightening journey, even where she would have obtained the abortion anyway, whether lawfully in another state after a more perilous trip alone, or illegally (and less safely) in her home state because she is too frightened to seek a judicial bypass or too terrified of physical abuse to notify a parent or legal guardian who may, indeed, be the cause of her pregnancy. It does not exempt health care providers, including doctors, from possible criminal or civil penalties. Nor does it uniformly apply home-state laws on pregnant minors who obtain out-of-state abortions. The law applies only where the young woman seeks to go from a state with a more restrictive regime into a state with a less restrictive one.

This amounts to a statutory attempt to force this most vulnerable class of young women to carry the restrictive laws of their home states strapped to their backs, bearing the great weight of those laws like the bars of a prison that follows them wherever they go (unless they are willing to go alone). Such a law violates the basic premises upon which our federal system is constructed, and therefore violates the Constitution of the United States.

ANALYSIS

The essence of federalism is that the several states have not only different physical territories and different topographies but also different political and legal regimes. Crossing the border into another state, which every citizen has a right to do, may perhaps not permit the traveler to escape all tax or other fiscal or recordkeeping duties owed to the state as a condition of remaining a resident and thus a citizen of that state, but necessarily permits the traveler temporarily to shed her home state's regime of laws regulating primary conduct in favor of the legal regime of the state she has chosen to visit. Whether cast in terms of the destination state's authority to enact laws effective throughout its domain without having to make exceptions for travelers from other states, or cast in terms of the individual's right to travel—which would almost certainly be deterred and would in any event be rendered virtually meaningless if the traveler could not shake the conduct-constraining laws of her home state—the proposition that a state may not project its laws into other states by following its citizens there is bedrock in our federal system.

One need reflect only briefly on what rejecting that proposition would mean in order to understand how axiomatic it is to the structure of federalism. Suppose that your home state or Congress could lock you into the legal regime of your home state as you travel across the country. This would mean that the speed limits, marriage regulations, restrictions on adoption, rules about assisted suicide, firearms regulations, and all other controls over behavior enacted by the state you sought to leave behind, either temporarily or permanently, would in fact follow you into all 49 of the other states as you traveled the length and breadth of the nation in search of more hospitable ''rules of the road.'' If your search was for a more favorable legal environment in which to make your home, you might as well just look up the laws of distant states on the internet rather than roaming about in a futile effort at sampling them, since you will not actually experience those laws by traveling there. And if your search was for a less hostile legal environment in which to attend college or spend a summer vacation or obtain a medical procedure, you might as well skip even the internet, since the theoretically less hostile laws of other jurisdictions will mean nothing to you so long as your state of residence remains unchanged.

Unless the right to travel interstate means nothing more than the right to change the scenery, opting for the open fields of Kansas or the mountains of Colorado or the beaches of Florida but all the while living under the legal regime of whichever state you call home, telling you that the laws governing your behavior will remain constant as you cross from one state into another and then another is tantamount to telling you that you may in truth be compelled to remain at home—although you may, of course, engage in a simulacrum of interstate travel, with an experience much like that of the visitor to a virtual reality arcade who is strapped into special equipment that provides the look and feel of alternative physical environments—from sea to shining sea—but that does not alter the political and legal environment one iota. And, of course, if home-state legislation, or congressional legislation, may saddle the home state's citizens with that state's abortion regulation regime, then it may saddle them with their home state's adoption and marriage regimes as well, and with piece after piece of the home state's legal fabric until the home state's citizens are all safely and tightly wrapped in the straitjacket of the home state's entire legal regime. There are no constitutional scissors that can cut this process short, no principled metric that can supply a stopping point. The principle underlying H.R. 476 is nothing less, therefore, than the principle that individuals may indeed be tightly bound by the legal regimes of their home states even as they traverse the nation by traveling to other states with very different regimes of law. It follows, therefore, that—unless the right to engage in interstate travel that is so central to our federal system is indeed only a right to change the surrounding scenery—H.R. 476 rests on a principle that obliterates that right completely.

It is irrelevant to the federalism analysis that the proposed federal statute does not literally prohibit the minor herself from obtaining an out-of-state abortion without complying with the parental consent or notification laws of her home state, criminalizing instead only the conduct of assisting such a young woman by transporting her across state lines. The manifest and indeed avowed purpose of the statute is to prevent the pregnant minor from crossing state lines to obtain an abortion that is lawful in her state of destination whenever it would have violated her home state's law to obtain an abortion there because the pregnant woman has not fully complied with her home state's requirements for parental consent or notification. The means used to achieve this end do not alter the constitutional calculus. Prohibiting assistance in crossing state lines in the manner of this proposed statute suffers the same infirmity with respect to our federal structure as would a direct ban on traveling across state lines to obtain an abortion that complies with all the laws of the state where it is performed without first complying also with the laws that would apply to obtaining an abortion in one's home state.

The federalism principle we have described operates routinely in our national life. Indeed, it is so commonplace it is taken for granted. Thus, for example, neither Virginia nor Congress could prohibit residents of Virginia, where casino gambling is illegal, from traveling interstate to gamble in a casino in Nevada. (Indeed, the economy of Nevada essentially depends upon this aspect of federalism for its continued vitality.) People who like to hunt cannot be prohibited from traveling to states where hunting is legal in order to avail themselves of those pro-hunting laws just because such hunting may be illegal in their home state. And citizens of every state must be free, for example, to read and watch material, even constitutionally unprotected material, in New York City the distribution of which might be unlawful in their own states, but which New York has chosen not to forbid. To call interstate travel for such purposes an ''evasion'' or ''circumvention'' of one's home-state laws—as H.R. 476 purports to do, see H.R. 476, §2(a) (heading of the proposed 18 U.S.C. §2431) (''Transportation of minors in circumvention of certain laws relating to abortion'')—is to misunderstand the basic premise of federalism: one is entitled to avoid those laws by traveling interstate. Doing so amounts to neither evasion nor circumvention.

Put simply, you may not be compelled to abandon your citizenship in your home state as a condition of voting with your feet for the legal and political regime of whatever other state you wish to visit. The fact that you intend to return home cannot undercut your right, while in another state, to be governed by its rules of primary conduct rather than by the rules of primary conduct of the state from which you came and to which you will return. When in Rome, perhaps you will not do as the Romans do, but you are entitled—if this figurative Rome is within the United States—to be governed as the Romans are. If something is lawful for one of them to do, it must be lawful for you as well. The fact that each state is free, notwithstanding Article IV, to make certain benefits available on a preferential basis to its own citizens does not mean that a state's criminal laws may be replaced with stricter ones for the visiting citizen from another state, whether by that state's own choice or by virtue of the law of the visitor's state or by virtue of a congressional enactment. To be sure, a state need not treat the travels of its citizens to other states as suddenly lifting otherwise applicable restrictions when they return home. Thus, a state that bans the possession of gambling equipment, of specific kinds of weapons, of liquor, or of obscene material may certainly enforce such bans against anyone who would bring the contraband items into the jurisdiction, including its own residents returning from a gambling state, a hunting state, a drinking state, or a

state that chooses not to outlaw obscenity. But that is a far cry from projecting one state's restrictive gambling, firearms, alcohol, or obscenity laws into another state whenever citizens of the first state venture there.

Thus states cannot prohibit the lawful out-of-state conduct of their citizens, nor may they impose criminal-law-backed burdens—as H.R. 476 would do—upon those lawfully engaged in business or other activity within their sister states. Indeed, this principle is so fundamental that it runs through the Supreme Court's jurisprudence in cases that are nominally about provisions and rights as diverse as the Commerce Clause, the Due Process Clause, and the right to travel, which is itself derived from several distinct constitutional sources. See, e.g., *Healy* v. *Beer Institute*, 491 U.S. 324, 336 n. 13 (1989) (Commerce Clause decision quoting *Edgar* v. *Mite Corp.*, 457 U.S. 624, 643 (1982) (plurality opinion), which in turn quoted the Court's Due Process decision in *Shaffer* v. *Heitner*, 433 U.S. 186, 197 (1977)) (''The limits on a State's power to enact substantive legislation are similar to the limits on the jurisdiction of state courts. In either case, 'any attempt ''directly'' to assert extraterritorial jurisdiction over persons or property would offend sister States and exceed the inherent limit of the State's power.' '').

The Supreme Court recently reaffirmed this fundamental principle in its landmark right to travel decision, *Saenz* v. *Roe*, 526 U.S. 489 (1999). There the Court held that, even with congressional approval, the State of California was powerless to carve out an exception to its otherwise-applicable legal regime by providing recently-arrived residents with only the welfare benefits that they would have been entitled to receive under the laws of their former states of residence. This attempt to saddle these interstate travelers with the laws of their former home states—even if only the welfare laws, laws that would operate far less directly and less powerfully than would a special criminal-law restriction on primary conduct—was held to impose an unconstitutional penalty upon their right to interstate travel, which, the Court held, is guaranteed them by the Privileges or Immunities Clause of the Fourteenth Amendment. See Saenz, 526 U.S. at 503–504.

Although Saenz concerned new residents of a state, the decision also reaffirmed that the constitutional right to travel under the Privileges and Immunities Clause of Article IV, Section 2, provides a similar type of protection to a non-resident who enters a state not to settle, but with an intent eventually to return to her home state: ''[B]y virtue of a person's state citizenship, a citizen of one State who travels in other States, intending to return home at the end of his journey, is entitled to enjoy the 'Privileges and Immunities of Citizens in the several States' that he visits. This provision removes 'from the citizens of each State the disabilities of alienage in the other States.' *Paul* v. *Virginia*, 8 Wall. 168, 180 (1869). It provides important protections for nonresidents who enter a State whether to obtain employment, *Hicklin* v. *Orbeck*, 437 U.S. 518 (1978), to procure medical services, *Doe* v. *Bolton*, 410 U.S. 179, 200 (1973), or even to engage in commercial shrimp fishing, *Toomer* v. *Witsell*, 334 U.S. 385 (1948).''

Saenz, 526 U.S. at 501–502 (footnotes and parenthetical omitted).

Indeed, *Doe* v. *Bolton*, 410 U.S. 179 (1973), which was decided over a quarter century ago, and to which the Saenz court referred, specifically held that, under Article IV of the Constitution, a state may not restrict the ability of visiting non-residents to obtain abortions on the same terms and conditions under which they are made available by law to state residents. ''[T]he Privileges and Immunities Clause, Const. Art. IV, §2, protects persons . . . who enter [a state] seeking the medical services that are available there.'' Id. at 200.

Thus, in terms of protection from being hobbled by the laws of one's home state wherever one travels, nothing turns on whether the interstate traveler intends to remain permanently in her destination state, or to return to her state of origin. Combined with the Court's holding that, like the states, Congress may not contravene the principles of federalism that are sometimes described under the ''right to travel'' label, Saenz reinforces the conclusion, if it were not clear before, that even if enacted by Congress, a law like H.R. 476 that attempts by reference to a state's own laws to control that state's resident's out-of-state conduct on pains of criminal punishment, whether of that resident or of whoever might assist her to travel interstate, would violate the federal Constitution. See also *Shapiro* v. *Thompson*, 394 U.S. 618, 629–630 (1969) (invalidating an Act of Congress mandating a durational residency requirement for recently arrived District of Columbia residents seeking to obtain welfare assistance).

In 1999, this Committee heard testimony from Professor Lino Graglia of the University of Texas School of Law. An opponent of constitutional abortion rights, he candidly conceded that the proposed law would ''make it . . . more dangerous for young women to exercise their constitutional right to obtain a safe and legal abortion.'' Testimony of Lino A. Graglia on H.R. 1218 before the Constitution Subcommittee of the Committee on the Judiciary, U.S. House of Representatives, May 27, 1999 at 1. He also concluded, however, that ''the Act furthers the principle of federalism to the extent that it reinforces or makes effective the very small amount of policymaking authority on the abortion issue that the Supreme Court, an arm of the national government, has permitted to remain with the States.'' Id. at 2. He testified that he supported the bill because he would support ''anything Congress can do to move control of the issue back into the hands of the States.'' Id. at 1.

Of course, as the description of H.R. 476 we have given above demonstrates, that proposed statute would do nothing to move ''back'' into the hands of the states any of the control over abortion that was precluded by *Roe* v. *Wade*, 410 U.S. 113 (1973), and its progeny. The several states already have their own distinctive regimes for regulating the provision of abortion services to pregnant minors, regimes that are permitted under the Supreme Court's abortion rulings. That, indeed, is the very premise of this proposed law. But, rather than respecting federalism by permitting each state's law to operate within its own sphere, the proposed federal statute would contravene that essential principle of federalism by saddling the abortion-seeking young woman with the restrictive law of her home state wherever she may travel within the United States unless she travels unaided. Indeed, it would add insult to this federalism injury by imposing its regime regardless of the wishes of her home state, whose legislature might recoil from the prospect of transforming its parental notification laws, enacted ostensibly to encourage the provision of loving support and advice to distraught young women, into an obstacle to the most desperate of these young women, compelling them in the moment of their greatest despair to choose between, on the one hand, telling someone close to them of their situation and perhaps exposing this loved one to criminal punishment, and, on the other, going to the back alleys or on an unaccompanied trip to another, possibly distant state. This Federal statute would therefore violate rather than reinforce basic constitutional principles of federalism.

The fact that the proposed law applies only to those assisting the interstate travel of minors seeking abortions may make the federalism-based constitutional infirmity somewhat less obvious—while at the same time rendering the law more vulnerable to constitutional challenge because of the danger in which it will place the class of frightened, perhaps desperate young women least able to travel safely on their own. The importance of protecting the relationship between parents and their minor children cannot be gainsaid. But in the end, the fact that the proposed statute involves the interstate travel only of minors does not alter our conclusion.

No less than the right to end a pregnancy, the constitutional right to travel interstate and to take advantage of the laws of other states exists even for those citizens who are not yet eighteen. ''Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights.'' *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52, 74 (1976). Nonetheless, the Court has held that, in furtherance of the minor's best interests, government may in some circumstances have more leeway to regulate where minors are concerned. Thus, whereas a law that sought, for example, to burden adult women with their home state's constitutionally acceptable waiting periods for abortion (or with their home state's constitutionally permissible medical regulations that may make abortion more costly) even when they traveled out of state to avoid those waiting periods (or other regulations) would obviously be unconstitutional, it might be argued that a law like the proposed one, which seeks to force a young woman to comply with her home state's parental consent laws regardless of her circumstances, is, because of its focus on minors, somehow saved from constitutional invalidity.

It is not, for at least two reasons. First, the importance of the constitutional right in question for the pregnant minor too desperate even to seek judicial approval for abortion in her home state—either because of its futility there, or because of her terror at a judicial proceeding held to discuss her pregnancy and personal circumstances—means that government's power to burden that choice is severely restricted. As Justice Powell wrote over two decades ago:

''The pregnant minor's options are much different from those facing a minor in other situations, such as deciding whether to marry. . . . A pregnant adolescent . . . cannot preserve for long the possibility of aborting, which effectively expires in a matter of weeks from the onset of pregnancy.''

''Moreover, the potentially severe detriment facing a pregnant woman is not mitigated by her minority. Indeed, considering her probable education, employment skills, financial resources, and emotional maturity, unwanted motherhood may be exceptionally burdensome for a minor. In addition, the fact of having a child brings with it adult legal responsibility, for parenthood, like attainment of the age of majority, is one of the traditional criteria for the termination of the legal disabilities of minority. In sum, there are few situations in which denying a minor the right to make an important decision will have consequences so grave and indelible.''

Bellotti v. *Baird* (Bellotti II), 443 U.S. 622, 642 (1979) (plurality opinion) (citations omitted).

Second, the fact that the penalties on travel out of state by minors who do not first seek parental consent or judicial bypass are triggered only by intent to obtain a lawful abortion and only if the minor's home state has more stringent ''minor protection'' provisions in the form of parental involvement rules than the state of destination, renders any protection-of-minors exception to the basic rule of federalism unavailable.

To begin with, the proposed law, unlike one that evenhandedly defers to each state's determination of what will best protect the emotional health and physical safety of its pregnant minors who seek to terminate their pregnancies, simply defers to states with strict parental control laws and subordinates the interests of states that have decided that legally-mandated consent or notification is not a sound means of protecting pregnant minors. The law does not purport to impose a uniform nationwide requirement that all pregnant young women should be subject to the abortion laws of their home states and only those abortion laws wherever they may travel. Thus, under H.R. 476, a pregnant minor whose parents believe that it would be both destructive and profoundly disrespectful to their mature, sexually active daughter to require her by law to obtain their consent before having an abortion, and who live in a state whose laws reflect that view, would, despite the judgment expressed in the laws of her home state, still be required to obtain parental consent should she seek an abortion in a neighboring state with a stricter parental involvement law—something she might do, for example, because that is where the nearest abortion provider is located. This substantively slanted way in which H.R. 476 would operate fatally undermines any argument that might otherwise be available that principles of federalism must give way because this law seeks to ensure that the health and safety of pregnant minors are protected in the way their home states have decided would be best.

In addition, the proposed law, again unlike one protecting parental involvement generally, selectively targets one form of control: control with respect to the constitutionally protected procedure of terminating a pregnancy before viability. The proposed law does not do a thing for parental control if the minor is being assisted into another state (or, where the relevant regulation is local, into another city or county) for the purpose of obtaining a tattoo, or endoscopic surgery to correct a foot problem, or laser surgery for an eye defect. The law is activated only when the medical procedure being obtained in another state is the termination of a pregnancy. It is as though Congress proposed to assist parents in controlling their children when, and only when, those children wish to buy constitutionally protected but sexually explicit books about methods of birth control and abortion in states where the sale of such books to these minors is entirely lawful.

The basic constitutional principle that such laws overlook is that the greater power does not necessarily include the lesser. Thus, for example, even though so-called ''fighting words'' may be banned altogether despite the First Amendment, it is unconstitutional, the Supreme Court held in 1992, for government selectively to ban those fighting words that are racist or anti-semitic in character. See *R.A.V.* v. *City of St. Paul*, 505 U.S. 377, 391–392 (1992). To take another example, Congress could not make it a crime to assist a minor who has had an abortion in the past to cross a state line in order to obtain a lawful form of cosmetic surgery elsewhere if that minor has not complied with her state's valid parental involvement law for such surgery. Even though Congress might enact a broader law that would cover all the minors in the class described, it could not enact a law aimed only at those who have had abortions. Such a law would impermissibly single out abortion for special burdens. The proposed law does so as well. Thus, even if a law that were properly drawn to protect minors could constitutionally displace one of the basic rules of federalism, the proposed statute can not.

Lastly, in oral testimony given in 1999 before the Subcommittee on the Constitution, Professor John Harrison of the University of Virginia, while conceding that ordinarily a law such as this, which purported to impose upon an individual her home state's laws in order to prevent her from engaging in lawful conduct in one of the other states, would be constitutionally ''doubtful,'' argued that the constitutionality of this law is resolved by the fact that it relates to ''domestic relations,'' a sphere in which, according to Professor Harrison, ''the state with the primary jurisdiction over the rights and responsibilities of parties to the domestic relations is the state of residence. . . and not the state where the conduct'' at issue occurs. See transcript of the Hearing of the Constitution Subcommittee of the House Judiciary Committee on the Child Custody Protection Act, May 27, 1999.

This ''domestic relations exception'' to principles of federalism described by Professor Harrison, however, does not exist, at least not in any context relevant to the constitutionality of H.R. 476. To be sure, acting pursuant to Article IV, §1, Congress has prescribed special state obligations to accord full faith and credit to judgments in the domestic relations context—for example, to child custody determinations and child support orders. 28 U.S.C. §§1738A, 1738B. These provisions also establish choice of law principles governing modification of domestic relations orders. In addition, in a controversial provision whose constitutionality is open to question, Congress has said that states are not required to accord full faith and credit to same-sex marriages. Id. at §1738C.

But the special measures adopted by Congress in the domestic relations context can provide no justification for H.R. 476. There is a world of difference between provisions like §§1738A and 1738B, which prescribe the full faith and credit to which state judicial decrees and judgments are entitled, and proposed H.R. 476, which in effect gives state statutes extraterritorial operation—by purporting to impose criminal liability for interstate travel undertaken to engage in conduct lawful within the territorial jurisdiction of the state in which the conduct is to occur, based solely upon the laws in effect in the state of residence of the individual who seeks to travel to a state where she can engage in that conduct lawfully.

The Supreme Court has always differentiated ''the credit owed to laws (legislative measures and common law) and to judgments.'' *Baker* v. *General Motors Corp.*, 522 U.S. 222, 232 (1998). For example, while a state may not decline on public policy grounds to give full faith and credit to a judicial judgment from another state, see, e.g., *Fauntleroy* v. *Lum*, 210 U.S. 230, 237 (1908), a forum state has always been free to consider its own public policies in declining to follow the legislative enactments of other states. See *Nevada* v. *Hall*, 440 U.S. 410, 421–24 (1979). In short, under the Full Faith and Credit Clause, a state has never been compelled ''to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate.'' *Pacific Employers Ins. Co.* v. *Industrial Accident Comm'n*, 306 U.S. 493, 501 (1939). In fact, the Full Faith and Credit Clause was meant to prevent ''parochial entrenchment on the interests of other States.'' *Thomas* v. *Washington Gas Light Co.*, 448 U.S. 261, 272 (1980) (plurality opinion). A state is under no obligation to enforce another state's statute with which it disagrees.

But H.R. 476 would run afoul of that principle. It imposes the restrictive laws of a woman's home state wherever she travels, in derogation of the usual rules regarding choice of law and full faith and credit.

Mr. FEINGOLD. Mr. President, I cannot support the Child Custody Protection Act. First, I object to the decision to bring this bill directly to the floor, circumventing the Senate's committee process. I remember when this bill came before the Senate Judiciary Committee in the 105th Congress. We held a hearing, debated and voted on amendments, and even issued a committee report with minority views. Mr. President, that was in 1998; surely, the factual basis of this legislation has changed since then. I do not see why the Leadership feels that this bill no longer deserves the serious consideration that it received eight years ago.

In addition, this bill is an overreach of Federal power that comes at the expense of the health and safety of young women. The notion that one State may not impose its laws outside its territorial boundaries is a core federalist principle, and I believe this bill might very well violate the Constitution if enacted. States should retain their right to enact and implement appropriate policies within their territorial boundaries. The Child Custody Protection Act would preempt these rights by allowing the laws of certain States to essentially trump the laws in other States.

In an ideal world, all young women who face this difficult decision would be able to turn to their parents. But we do not live in an ideal world, and the reality is that there are young women who feel they cannot turn to a parent out of fear of physical or mental abuse, getting kicked out of the house, or worse. This bill would deny these young women the ability to turn to another trusted adult for help. Many national medical and public-health organizations, including the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have expressed grave concern about mandatory parental consent laws for these reasons.

Our focus in the Senate should be on ensuring that unintended pregnancies do not happen in the first place. For these reasons, I intend to continue my work in the Senate to ensure that all women have access to the best information and reproductive health services available. If we do that, abortions will become even more rare, as well as staying safe and legal.

Ms. MURKOWSKI. Mr. President, I rise today to speak on the Child Custody Protection Act. I support the intent of the act, which seeks to protect the health and safety of pregnant minors, as well as the rights of parents to be involved in the medical decisions of

their minor daughters. However, I believe this act might have gone further in protecting young women in situations of family abuse or incest.

As a parent of two, I understand the importance and centrality of family, and an essential element of that: the parent-child relationship. The Supreme Court noted in Planned Parenthood v. Casey that parental involvement laws related to abortions ''are based on the quite reasonable assumption that minors will benefit from consultation with their parents and that children will often not realize that their parents have their best interests at heart.'' It is important that, to the extent possible, a young woman be able to consult with her family before making the decision to have an abortion.

Unfortunately, some young women, particularly victims of incest or family violence, cannot safely involve parents in their decision to obtain an abortion. In such a circumstance, as my colleagues have rightfully pointed out, the minor girl could seek a judicial bypass, which would allow the girl to petition a judge to waive the parental involvement law. The bypass is intended for situations of incest or family abuse, and would allow for the involvement of appropriate state authorities, making it more likely that the minor girl will be removed from the abusive situation and that the abuser will be brought to justice. The bypass option is fundamental to the rights of the minor, and exists to protect her safety.

Constitutional law requires a parental consent law to contain a judicial bypass provision. However, the circuit courts are divided as to whether parental notification laws also must contain a judicial bypass. I am concerned for those girls who are in an abusive family situation and who reside in states that could enact a parental notification law without a bypass option. I believe something must be done to strengthen the bypass requirements in this bill to ensure the protection of minor girls with abusive families.

Given the unanimous consent agreement, I do not have the opportunity to amend the Child Custody and Protection Act on the floor in order to strengthen the bypass option in cases of parental notification. I will look to my colleagues in conference to consider adding a provision that would ensure, with respect to parental notification, that minor girls in incestuous or family abusive situations be able to seek a bypass, whether it be the judicial bypass or, as in Utah, the medical bypass, which permits a physician to waive the parental notification requirement in cases of incest or family abuse. The physician must also notify State authorities.

It is right to protect pregnant girls and their families from those who do not have the minor girl's best interest at heart. Mr. President, I only ask that everything be done to protect the health and safety of those minor girls seeking an abortion who feel they cannot safely turn towards their family.

Mr. OBAMA. Mr. President, I am the parent of two young daughters. And as a parent, it is my sincere hope that my daughters will always feel they can come to me or my wife with any problem. So, even though I strongly believe in a woman's right to choose, I also believe that young women, if they become pregnant, should talk to their parents before considering an abortion.

But I also know that the reality is different for many young women. Some don't live in a traditional two-parent household. Others don't have a parent in whom they are comfortable confiding. For these young women, the most trusted adult in their life may be a grandparent, an aunt, or a clergy member.

I certainly hope these trusted adults would want to help a young person through a difficult time like a pregnancy. Unfortunately, this bill all but eliminates this option for young women. Instead of encouraging pregnant teens to seek the advice of adults, this bill criminalizes adults who attempt to help a young woman in need and essentially abandons them to confront a difficult issue on their own.

In fact, this bill would criminalize adults even if they were not attempting to help a young woman in need. Under this bill, if a grandparent gave a young woman a ride across a state line—say from South Dakota into neighboring Iowa—and that young woman ended up seeking an abortion, that grandparent could spend up to a year in prison.

Now, there are a lot of other problems with the bill: there is no health exception, no judicial bypass, and the notion that one State's laws can take precedence over another State's laws is unconstitutional and unacceptable. But the fundamental flaw with the bill is its criminalization of compassion. At a time when teenagers most need help, this bill would instead force caring and trusted adults—whether it's an older sister, an aunt or grandparent, or health professionals, social workers, or a minister—to stand to the side and watch the young woman go it alone.

I wish this bill was an honest effort to confront the real issue here: unwanted teen pregnancies. No one in this body—whether pro-choice or pro-life—wants young women to seek abortions. But this bill does not address this serious issue. I hope we can work to pass legislation that will provide young people today with the information they need to prevent unwanted teen pregnancies. I regret that I am unable to support this bill today.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the Child Custody Protection Act. I oppose this bill for three reasons. The first is that it does nothing to promote the health and safety of our children. The second is that I do not believe it can pass constitutional muster. The third reason I oppose this bill because it is just another example of the continual assault on women's reproductive freedom.

I strongly believe that minors should involve their parents in all important decisions. This includes the decision to have an abortion. Research shows that most women voluntarily involve their parents when making this decision. However, I recognize that there are some young women who cannot talk to their parents about this issue. Some young women may not live with either of their parents, and instead live with a grandparent, aunt, or another adult relative. Some young women may be growing up in households where they experience physical and sexual abuse and may be threatened with further abuse should their parents be aware of a pregnancy. Yet young women facing pregnancy crisis need help and support.

There are no exceptions in this bill which address the realities of women's lives. The reality is that some young women come from abusive homes. The unfortunate reality is that sometimes young women are raped by their fathers, and this results in a pregnancy. And, the reality is that a young woman may need a trusted adult whether it be a grandparent, older sibling, priest or rabbi, to accompany them if they choose to get an abortion.

This bill does not help these young women. In fact, this bill says to women who cannot involve their parents that they have to go it alone. That is why I voted for the Feinstein amendment which would have allowed other trusted adults like grandparents or clergy members to be allowed to step in when a young woman could not go to her parents for help. This amendment was a step in the right direction. It acknowledged that unfortunately some young women cannot talk to their parents about this very important decision.

That is why I also voted for the Lautenberg-Menendez amendment. This amendment addresses the causes of teen pregnancy. The amendment takes positive steps to prevent teenage girls from getting pregnant in the first place. It funds teen pregnancy prevention programs in schools and community settings. The amendment provides funding to keep teens out of trouble and on the road to success. It restores budget cuts to after school programs and physical education classes.

I also oppose this bill because it does not pass constitutional muster. Not only does it totally ignore cases where a young woman's health is threatened. That clearly undermines the major holding in Stenberg v. Carhart which requires any law regulating abortion must contain an exception for a woman's health. Let's be clear: because this bill does not contain an exception to protect the health of young women it will be ruled unconstitutional.

Finally, I oppose this bill because it is yet another assault on women's reproductive freedom. I strongly support a woman's right to choose and have fought to improve women's health during the more than two decades I have

served in Congress. Whether it is establishing offices of women's health, fighting for coverage for contraceptives, or requiring Federal quality standards for mammography, I will continue the fight to improve women's health.

Today, I will oppose S. 403 because it forces young women who are dealing with a crisis pregnancy to go it alone and deprives them of the advice and assistance of a trusted adult. It assumes that every family is safe, stable, and supportive. The bill ignores that some minors cannot go to mom and dad for help. It does not make our children any safer. I urge my colleagues to vote against S. 403.

Mr. INHOFE. Mr. President, I rise today in support of S. 403, the Child Custody Protection Act. This bill prohibits transporting minors across State lines to obtain an abortion without parental notice or consent. I have and will continue to fight for the protection of children in the womb as well as the safety of minors.

I believe that life begins at the moment of conception and that children in the womb deserve the same rights and protection as all other human beings.

The Child Custody Protection Act will not only help protect these children in the womb, it will also protect their young mothers and families by involving parents who have their best interests at heart.

I believe we can all agree that our young girls must be protected, and the laws put in place for that purpose must be upheld. Currently, 45 States have laws that require notification, consent, or some type of consultation with a minor's parent or guardian before she can legally have an abortion. However, there are no laws to prevent a minor from crossing State borders and having an abortion performed in a State without such laws.

This practice disregards abortion policies of individual States, implicates interstate commerce, and endangers young girls by allowing them to have dangerous abortion procedures performed without the guidance of their parent or guardian. The Child Custody Protection Act prohibits transporting a minor across a State line for the purpose of obtaining an abortion if doing so circumvents a parental notification or consent statute in the minor's residing State.

The Child Custody Protection Act will not change the parental notification or consent laws of any individual State, but will help to enforce these laws by helping to prevent minors from being taken out of a State for an abortion without a parent's knowledge or consent. This bill will actually reinforce State policies that are already in place.

Sadly, many young girls have been taken out of State by an individual other than her parent or guardian to obtain an abortion and have been subjected to unsafe and unlawful abortion procedures that endanger them physically and mentally. Abortion can cause physical and emotional complications for a young girl, and these dangers are greatly increased by taking her away from of the influence of her parents or guardian, placing her in the hands of an individual who does not have her best interests in mind.

Crystal Farley Lane was one such victim. When she was 12 years old, she became pregnant after tragically being raped by a 19-year-old man. Rosa Hartford, the man's mother, then took Crystal from her home in Pennsylvania, without her mother's knowledge or consent, to New York, where there were no parental consent laws, to have an abortion. After the procedure, Ms. Hartford abandoned young Crystal, who had serious medical complications, 30 miles from her home. When Crystal's mother, Joyce Farley, found out what happened and tried to help by asking the abortionist for Crystal's medical records, she was denied. Fortunately, Ms. Farley was able to help her obtain the medical care she needed in time, despite this obstacle by the abortionist.

Crystal's near-death experience could have been prevented had the Child Custody Protection Act been in place. Instead, there are currently no laws to prevent people like Ms. Hartford from taking Crystal out of Pennsylvania to obtain an abortion without parental consent.

Ms. Farley poignantly testified before the Senate Judiciary Committee that, ''situations such as this are what the 'Child Custody Act' was designed to help prevent. I am a loving, responsible parent whose parenting was interfered with by an adult unknown to me.''

In another instance, Marcia Carroll's 14-year-old daughter was forced into having an abortion by her boyfriend's family. The family took her from Pennsylvania to New York without Ms. Carroll's knowledge or consent, left her alone to have an abortion that she did not want to have, and then left her a block from her home in Pennsylvania. This 14-year-old girl had to go through a frightening and painful abortion procedure on her own and was then left to deal with the physical and emotional pain from an abortion that she did not want to have.

I find it terribly unjust that there are no laws to prevent situations such as these from happening and that families have no recourse against those who are responsible.

Very often, adult men, who are on average 6 to 7 years older than their victims, are the culprits of this violating crime against these young girls. Two-thirds of these adult men are 20 years of age or older. Additionally, more than half of the time it is a girl's boyfriend who takes her to another State to have an abortion without her parents' consent. An abortion performed in a jurisdiction that prohibits release of the medical records destroys any evidence that might have been used against a perpetrator to prosecute him for statutory rape and leaves him free to continue preying on these young girls without consequence.

The incongruity of this status is striking. There are so many restrictions to protect our minors from making bad decisions by requiring parental consent for their actions. They must have parental consent to take medication at school, even an aspirin. They cannot go on a school field trip without a permission slip signed by a parent. Why, then, can a young girl who cannot take an aspirin without the consent of her parents, cross a State border and have an abortion without notifying them? And why can an adult be prosecuted for giving a child aspirin but not for taking her to another state to have an abortion?

By reinforcing State abortion laws requiring parental notification or consent, the Child Custody Protection Act will protect our young daughters from making or being coerced into poor, irreversible, life-changing decisions. I believe we can all agree that action must be taken to prevent the evasion of laws created to protect minors and their families and help preserve the precious lives of children in the womb. I ask that this Chamber quickly pass this lifesaving legislation.

Mr. LIEBERMAN. Mr. President, I rise today in opposition of the Child Custody Protection Act, S. 403. This bill is not about reducing the numbers of abortions in America. S. 403 is about politics played at the expense of young women in the United States. S. 403 would make it a Federal crime for adults other than guardians to transport a minor across State lines to obtain an abortion. This is not nearly as simple as it may sound. S. 403 is another direct attack on the reproductive rights of women. It turns its back on young women who do not inform their parents about their decision to obtain an abortion even if they face threats of personal harm. S. 403 would criminalize grandmothers, religious leaders, aunts and uncles, and doctors fighting for the health and well-being of young women. This bill would take us back to the time before Roe v. Wade where women did not have the right to control their own bodies and too often were forced to seek an abortion at any cost.

The supporters of S. 403 want us to believe that there is a significant problem with young women being transported involuntarily over State lines to receive unwanted abortions without their parents' consent. But this is not what this bill is about. The majority of young women involve their parents in a vital decision such as this. In fact, over 60 percent of young women involve their parents in their decision to have an abortion. For adolescents 14 years and younger, the number is 90 percent.

So what is happening in cases when young women choose not to involve their parents? Studies show that in one-third of the cases where young women do not involve a parent, they

fear family violence or being forced to leave the home. Research tells us that almost 50 percent of pregnant young women with a history of physical abuse report that they were hit during their pregnancy. Unfortunately, the person they were most often hit by was a family member.

The truth is adolescents that are most at risk for teen pregnancy are also the most likely to come from violent homes. Here, they often may not receive the parental guidance they need to make healthy decisions. Therefore, many experts tell us that teens at greatest risk for teen pregnancy also suffer the most from mandatory parental consent laws. These are young women that often do not have access to good parental support and guidance. They are likely to turn to other adult role models in their lives—grandmothers, aunts, cousins, or sisters for that guidance and support.

But S. 403 would send these people—grandmothers, aunts and religious figures—to prison for assisting young women in need. Mr. President, is this the way the Nation should be focusing on as a solution to teen pregnancy? Why don't we work together to reduce the numbers of unintended pregnancies and give people the social supports they need to make healthy choices? Why aren't the administration and the congressional majority talking about finding new pregnancy prevention programs that do not include jails?

Instead, this administration and the majority in Congress are initiating programs that are reversing the declines in abortion rates that we saw in the late 1990s. The Bush administration is more concerned with parental notification laws that we know hurt teens and would only affect a minority of cases than with actually preventing abortions. On their watch, abortion rates have stopped declining. In fact, according to government statistics, 90 percent of the States that attract the most out-of-State abortions actually have moderate to strict parental involvement laws. S. 403 will do nothing to keep young women from having to make a difficult choice—it will only make it harder for them.

The American Psychological Association has listed studies that show that parental notification laws increase adolescent stress and anxiety. They increase the likelihood of teenage pregnancy. Parental notification laws also make it more likely that teens will turn to extralegal and unsafe methods of abortion that could result in serious injury.

I wished we lived in a world where parents would always be involved in their children's health decisions. I would want any young woman in America contemplating abortion to trust her parents enough and feel safe enough to involve them in her decision. Unfortunately, that is not the reality that many of our young women face. They cannot go to their parents for fear of abuse and violence. This bill does nothing to protect these young women by including a strong judicial bypass, and does not take into consideration the difficult situations these young women face.

I cannot even list the numbers of groups that have come out in strong opposition of S. 403, but they include the American Civil Liberties Union, the American Academy of Pediatrics, the American Medical Women's Association, the National Organization for Women, the National Partnership for Women & Families, and the Republican Majority for Choice. I am joining those groups in opposition to S. 403.

S. 403 is another attempt at curtailing a woman's right to choose—in this case, young women, who are often the most vulnerable to violence and abuse from those that are supposed to be protecting them. I ask my colleagues to defeat S. 403.

Mr. CRAIG. Mr. President. I rise today in support of legislation protecting the most important relationship of all: that of parents and their children. The family is the fundamental, crucial and indispensable building block of our civilization, and parents are at its center. Yet, when it comes to one of the most important decisions in life, children are being kept from the guidance of their parents. I am talking, of course, about the decision whether or not to have an abortion.

The American people believe that parents should be involved in deciding whether their daughter should undergo an abortion. Statistics consistently show this, and the Supreme Court has upheld this. As the Court noted in the decision of H.L. v. Matheson: ''the medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature.'' In the case of Parham V. J.R. the Court said ''[t]he law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions.''

Convinced of the soundness of this reasoning, at least 48 States have enacted laws requiring consent of or notification to at least one parent, or authorization by a judge, before a minor can obtain an abortion. Unfortunately, this wise policy is being undermined.

Thousands of children every year are taken across State lines by people other than their parents to secure secret abortions. As we speak, abortion providers across the Nation, operating in States with no parental consent or notification laws, are taking out advertisements in phonebooks outside of the State where they operate in order to attract underage patients in neighboring States with different laws. They are doing this in my home State of Idaho. They are doing this in Pennsylvania, blatantly trumpeting the fact that their clinics, outside of Pennsylvania, do not require parental notification as Pennsylvania does. In essence, these abortion providers are encouraging people to circumvent one State's parental notification law by crossing the border into another for a secret abortion.

The tragedy is that thousands of nonrelated adults take this suggestion every year in successful attempts to circumvent the law. In one highly publicized case, a 12-year-old girl living in a State with a constitutionally upheld parental notification law became pregnant by an 18-year-old man. The man's mother took her for an abortion in a neighboring State with no parental notification requirement. The mother's actions were discovered, and she was convicted of interfering with the custody of a child. A prominent proabortion legal defense organization appealed the conviction on the grounds that she merely ''assisted a woman to exercise her constitutional rights'' and as such was herself protected from prosecution by the Constitution. This reasoning cannot stand.

To say that, because the Court in Roe v. Wade declared most abortions constitutionally protected during the first trimester, that therefore minors have an absolute right to abortion without so much as notifying their parents, and that third parties—whatever their motives—have the right to transport them across State lines for a secret abortion, is to stand constitutional protections on their head. It is to strip children of the natural protection of their parents. There is hardly another circumstance warranting the need for parental guidance and judgment more than when a young daughter becomes pregnant and is considering an abortion. For the sake of our children and our families, this must stop. As a Nation, we loosen our precious family ties at our peril.

I must also note that Idaho is unable to enforce parental notification and consent laws that have passed the State legislature and have been signed into law by the Governor. Nearly 20 other States are in the same situation. These laws are all enjoined due to lawsuits brought by organizations intent on imposing their flawed understanding of the United States Constitutional protections on the American people, and judges willing to support it. It is my hope that this litigation will be resolved and that the right of elected officials to make and enforce laws under their jurisdiction will be upheld.

I strongly support and am cosponsoring the Child Custody Protection Act. Children must receive parental consent for even minor surgical procedures. Children must receive parental consent to take an asprin from their school nurse. I want to make it a Federal offense to transport a minor across State lines with intent to avoid the application of a State law requiring parental involvement in a minor's abortion, or judicial waiver of such a requirement. The profound, lasting physical and psychological effects of abortion demand that we help states guarantee parental involvement in the

abortion decision. That means, at a minimum, seeing to it that outside parties cannot walk around State parental notification and consent laws on a whim or as a means to hide illegal activity. We can no more afford to allow State laws to be ignored than we can afford to allow family ties to be further undermined. For the sake of our families, I urge my colleagues to defend both by supporting the Child Custody Protection Act.

Mr. MCCONNELL. Mr. President, I rise today in support of parents' most basic right and responsibility: to be actively involved in their children's lives, particularly in times of crisis. For that reason I wholeheartedly support S. 403, the Child Custody Protection Act.

I was an original co-sponsor of this bill when my good friend from Nevada, Senator ENSIGN, introduced it in 2005. S. 403 will make it a Federal offense to transfer a minor across State lines to obtain an abortion in order to evade a parental notification or parental consent law in the State in which the minor resides.

I am sure that my colleagues on both sides of the aisle will agree with me that every abortion is a tragic occurrence. The weight of such a decision falls heavily on any woman, particularly a minor. That is exactly the time that a child should be able to rely on a parent's counsel. And that is exactly the time a parent has a responsibility to be a parent, and get involved in their child's life.

Let me stress that S. 403 will not impose any new law or requirement on any State. Nor does it alter or supersede any existing State laws. All that this bill will do is reinforce state laws that are already in effect, and prevent them from being evaded by miscreants who would transport a minor across State lines for an abortion and cut the parents out of their child's life at such a crucial time.

This bill will promote the health of pregnant teens by ensuring that their parents—the people best equipped to make major medical decisions, answer questions about medical history, and help their child through the physical and emotional recuperative process—are present. And the bill also contains an exception if an abortion is necessary to save the life of the minor.

There is already a national consensus in America that a parent should be involved when a minor girl faces such an important decision. Forty-five States have enacted laws recognizing the need for responsible adults to give guidance to minors in decisions about abortion. And 37 States have parental notification or parental consent laws, including Kentucky, which has the latter. What we are doing here is an entirely appropriate Federal role: reinforcing the States' power to pass and enforce laws which are entirely constitutional. When I say that the State law in question must be constitutional, that is also provided for in the bill. S. 403 will only reinforce a State law if that law has passed constitutional muster.

Some critics will claim that this bill will grant too much influence to parents in their children's lives, and that young girls ought to be able to go and get an abortion without talking to their mom or dad. I am a little surprised at that line of thinking. I think that, generally, it is a good thing for kids to talk to their parents and ask them for help when they need it. But in any event, we have laws that give parents a say in what their kids do for matters far less serious than abortion.

Twenty-seven States currently require parental consent—not just notification, but consent—before a child under age 18 can get a tattoo. And 27 States require parental consent before a child under age 18 can get a body piercing. So if the opponents of this bill had their way, a 14-year-old girl could evade State law to get an abortion—but not a tattoo.

Perhaps thousands of underage girls get taken across State lines for abortions every year. Studies have shown that the majority of these girls have male partners older than 20. Many of these men are committing statutory rape. These girls are in trouble and need the advice of a mom or a dad to help them out of their desperate situations. This Senate ought to take the side of the parents over the side of the criminals.

Throughout my career, I have consistently stood for protecting the unborn and promoting a culture of life. I don't like that people are spiriting young girls away from their parents to get them to have abortions, and evading State law to boot. If this law means fewer abortions in America, I will celebrate that.

But I want to stress to my colleagues who may take an opposing view that the central issue of the Child Custody Protection Act is parental rights. Parents ought to have the right to be heard at such a pivotal moment in the children's lives, and States ought to have the expectation that their duly passed laws ensuring just that are enforced.

What opponents of this bill forget is that no parent wants anyone to take their children across State lines—or even across the street—without their permission. This is a fundamental right, and the Congress is right to uphold it in law.

Not one girl should have to make a decision—or worse, be forced into a decision that she will regret for the rest of her life because her mom and dad weren't there to lean on. It is this Senate's responsibility to see that doesn't happen. I urge my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, to update our colleagues on what has been going on, we had three amendments still pending on this bill. Senator BOXER and I, and our staffs, with the leadership on both sides, have been working together. We think we have come up with a compromise amendment. It will be the Boxer-Ensign amendment. We will be making a unanimous consent request in a few moments.

I thank Senator BOXER and her staff for the way they have worked together with us, coming to an agreement. This is a good example of how people who fundamentally disagree—passionately—on an issue can actually find some common ground and work together at least on an amendment. That is what we have done today. I am very pleased with what the staffs have done and the compromise we have reached. It is very satisfying.

Let me spend a few minutes talking on the bill as the final details are being worked out. This is an important piece of legislation, not because of the huge numbers it will affect—I have had that question from reporters: How many girls actually get taken across State lines to get an abortion? Sadly, no one knows the answer to that because it is not reported.

As a matter of fact, right now when it happens, the parents have no rights to the information, so they cannot find out even after the fact. They find out by rumor or maybe their child ends up telling them later where they had it done. We had cases where they tried to get the information, but, frankly, the clinic would not release the information. We have no idea how many victims are out there—the records are not kept anywhere—or how often this happens.

I have tried to put myself in a situation that I would want my Senator representing me. I try to say, okay, I am an average person, how would I want my Senator representing me? I happen to be the father of a little girl. We have three kids. Our middle child is a little girl. She happens to be with me this weekend in Washington. In the coming years, as she matures as a young woman, I think about if some 20-year-old preyed on her when she was in her teenage years and got her pregnant and then somehow, because we had a parental consent law, which I hope we do someday in Nevada, and the 20-year old said: I won't date you anymore unless you get a secret abortion. He thinks: I will convince her somehow, manipulate a very vulnerable young woman. I will convince her that I won't see her anymore if she doesn't get the abortion—or whatever means needed to persuade her to get an abortion. If there is a parental consent law in my State, I will decide to go someplace else where they don't require it. In other words, he gets around the will of the people of the State of Nevada or any state that requires parental involvement.

In a case such as that, I would be totally devastated as a parent because I would not be able to help my daughter through this time because I would not even know about it. I would not know if she had a complication from the surgical procedure of abortion. I would not know—if she had a complication in the

middle of the night and she started bleeding—that I should be watching for something that could be going wrong. If she had a fever, I would probably say: Honey, we will get you some Advil or Tylenol. And maybe I would hold her for a little while. And she would be afraid to tell me what was going on and, without me knowing, that could develop into very serious complications overnight. Complications that could even be life threatening.

Well, I try to put myself in those kinds of situations as a Senator and say: How would I want to be represented? And this is how I would want it. I would want somebody to stand up and say: The rights of parents should be respected. That is what we are doing in this bill. But more than that, for the well-being of these teenage girls, the vast majority of them would be better off if the parents were involved.

Now, we realize there are cases where that is not the case, where there is an abusive parent. There are exceptions. That is part of the amendment compromise we are working to reach. I think it is a good compromise. In a situation—that has been brought up here on the floor many times where there has been a girl impregnated who is in her teenage years, we do not want to make unreasonable exceptions that make these laws ineffective.

There was an amendment that would have said: We will make an exception to allow the clergy to take a girl across State lines. They wanted an amendment that said the grandparents should have an exception. Well, let me address those two exceptions because they sound, on their face, reasonable. We have case after case after case of documentation where the clergy was actually the person who was impregnating the teenager. We have all read about the scandals with some of our clergy. Clergy are human beings and, just like any other, they can be flawed human beings. We know that. Just because they have a white collar on does not mean they are perfect human beings.

Some of those imperfections can be seen in cases of sexual abuse by members of the clergy with teenagers. For instance, there have been members of the clergy who have taken minor children across State lines to avoid parental consent laws. And because they are clergy—they are supposed to be this authority figure—the girl does not want to question them and she goes across State lines and has a secret abortion.

The exception that was going to be offered in one of the amendments would have allowed that member of the clergy, which was not defined, to be exempt from prosecution under this bill. I cannot support such an exemption.

Not only that, any one can become a member of the clergy. In fact, last night I asked my staff, because I had heard you could become a member on the internet fairly easily, and within 3 minutes she became an ordained minister. So, anybody could go on the Internet and officially be recognized as an ordained minister, officially by our courts. Leaving it open that a 20-something-year-old who has impregnated a teenager could become a minister and could still fall under the clergy exception.

Let me address the grandparent case. In the case of the grandparents, you have a situation where maybe there was incest in the family, and the grandparent feels they care about the child, and they want to help them. Most grandparents are loving, and they will want to help the child in that case. The Senator from California and others have made the case that they should not be prosecuted under this law because they took the child across State lines to get an abortion because they only thought they were trying to help.

Well, I would make the argument that if those grandparents cared about that child who was in a situation where they were in an abusive home—they were raped by their father—the grandparents should contact the authorities, get the authorities involved to stop the cycle of abuse. You would use the judicial bypass for such case. Judicial bypass would mean that you would not have to go across State lines if that was what the outcome would be, to have an abortion. You would have the judiciary, the authorities involved.

If the authorities were involved, you take that girl out of that abusive situation and protect her. If you allow for the grandparent exception and allow secret abortions, that is not going to happen. In too many cases, it is easier to get the abortion, and hide the problem, saving the family from embarrassment. If you go to the authorities, it may become public. That is why I think we need to not have the grandparent exception and the clergy exception.

So, Mr. President, we are still waiting for the amendment to come down in its final form. As soon as it does, we will be entering into a unanimous consent agreement. But let me wrap up because it has been a very good debate, with strong emotions on each side.

I think this is a bill Americans can come together on and find common ground. I have mentioned before there are good people on both sides of the abortion debate with deeply held beliefs. I believe life begins at conception and that child is a child and has a soul from the time they are conceived. That is why I believe that same child deserves protection throughout their life. I also know that people look at it differently on the other side, and they too have deeply held beliefs.

So Americans have been saying: Can't we at least find some middle ground? Can't we find some ground to at least make some reasonable restrictions on abortion and support parents rights? I believe we have brought forth a bill today that finds that common ground. Eighty percent of the American people support this legislation, and they do that because it is reasonable. From a protection of parents' rights perspective; from a protection of the girl's perspective; from going after some of these, literally, sexual predators, these 20-something-year-olds, who are taking these teenagers across State lines; from a law enforcement perspective; from a lot of different ways this is a reasonable piece of legislation. That is why I introduced it, why I support it so strongly, and why I am happy we are finally having this debate on the Senate floor.

I want to thank my colleagues, especially Senator BOXER, on the other side of the aisle for allowing the debate to happen, for bringing this thing to a final vote, where we can get passage on this bill and then go to a conference with the House and, hopefully, work out the differences between the House and the Senate. My hope and prayer is we can get this bill actually signed into law by the President this year.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from California.

Mrs. BOXER. Mr. President, again, for the benefit of our colleagues, we are waiting patiently to have the amendment we agreed on to come before us. Then we are hoping at the right time, Senator ENSIGN will make a unanimous consent request for a vote on an amendment we have agreed on, and then vote on final passage. So hopefully we will have that done very soon. As soon as it is done, I will yield the floor and allow the Senator, the good Senator from Nevada, to make his unanimous consent request.

The Senator from Nevada wants to protect our daughters. He is a dad of a daughter. I am a mom of a daughter. I want to protect our daughters. So let's not get confused on this point. We all want to protect our daughters. We all adore them. We want them to be safe, and we want them to get the help they need. We want them healthy. We want them well. We do not want them afraid.

But I do fear that this bill, the way it is drafted—and, yes, we are going to make a little bit of a correction on the incest part, but not as much as we should, but some—we are going to make some progress, and I am grateful for that. Basically, the way this bill is drafted, it is going to frighten our daughters because here is the way it works, folks: If you are a young woman in a parental notification State, you will take matters into your own hands because you are too frightened to go to your parents.

Now, we all hope all parents will be open and loving and caring and helpful and will be able to be approached when a young woman becomes pregnant and it is an unintended pregnancy. We would hope and pray that family, that loving family, will sit around and talk about what ought to happen here, what is the best thing for everybody. I am pro-choice. I am for whatever the family decides. If they decide that the best thing is to raise that child in the family, that is their choice. If they decide

it is best if the young woman exercises her right to choose, which is her right in this country—and has been since 1973—she has that right.

That is what we hope happens, that there will be these conversations. Of course, my friends on the other side of the aisle do not want a choice. They want to force her to have the child. They are against Roe v. Wade, but that is another debate. That is a debate we take to the people, and that is a debate that the pro-choice people win. They do not want Senator BOXER or Senator ENSIGN involved in that family discussion, saying: But, no, you must have this child. You must not have any rights to choose. They do not want that. People do not feel comfortable with it. They want to deal with this their own way, with their own God, with their own family, with their loving family members. But that is not before us.

What is before us is a very narrow bill that deals with a very narrow circumstance where there is a young woman who does not go to her parents, mostly because she is scared to death to go to them. For whatever reasons, in her mind, she is fearful: Will they—if she is from a violent home—beat her up? Will they hurt her? Will they verbally abuse her? Will they be disappointed? And that weighs on her.

So what we are saying with this bill to that girl in a parental notification State is: You are alone. You can't go to anyone else. You can't go to your grandma who you adore, you can't go to your grandpa, you can't go to your big sister, you can't go to your Aunt Susan, you can't go to your clergy who has taken care of you and looked after you.

So you can't go to your doctor. You can't do this because they could be sued and put in jail. That is what this bill does. Is that America? Rather than go to the people who she knows who adore her, love her, care about her, would counsel her, would help her and, perhaps, by the way, talk her into speaking to her parents or going with her to speak to her parents, this bill says: Go it alone, get in your car, get in an airplane, don't take anyone with you, don't tell anyone else, because that person can be sued and, worse, put in jail.

These are our kids. My God, what a situation. And somehow this is supposed to be a wonderful thing we are doing, a family-values thing we are doing. I don't think you can force families into these situations. We don't know enough to be able to do that. There will be unintended consequences. We will have suicides. We will have very serious problems.

As we wait around here in these last moments of this debate—and I am hopeful we can bring it to a close—let me say again that I thank Senator ENSIGN for coming my way, not quite halfway, on the issue of incest. Because the bill as written allowed a father who raped his daughter to have all kinds of parental rights: the right to sign an agreement that she could have an abortion, the right to take her over State lines, the right to sue a loving and caring adult who helped her.

I wish to show this chart which I have shown previously. Under this amendment we are hoping is coming to us momentarily, we will stop a father who has raped his daughter from suing the trusted adult who helped his daughter end the resulting pregnancy. So in the case of incest, if the child goes to grandma, the incestuous father cannot sue grandma.

Then, at the end, Senator ENSIGN was not willing to take these three provisions which I will debate. He did take my last provision.

We now stop a father who has raped his daughter or any other family member who has committed incest against a minor from transporting her across State lines to obtain an abortion. That would be a crime.

The three things that are not done, which is why I think this amendment falls short: we haven't stopped a father who has raped his daughter from exercising parental consent rights; we haven't stopped all criminal prosecution or jail time for a trusted adult who helped a victim of incest; and we haven't stopped all civil suits against a trusted adult who helped a victim of incest. But we have taken care of two issues. For that I am grateful because this bill will become law. It will be sent to the President, who will sign it. Unlike his veto on the stem cell bill, which he should have signed, because that bill would help our families, help our children with juvenile diabetes, help grandmas and grandpas with Alzheimer's, Parkinson's, help our youngsters who were paralyzed—he vetoed that. He will sign this one.

This is a political bill. It did come to us in 1998 just before the election. Let's face facts. We know when it came.

My friend from Nevada is right when he says people support parental notification. They do want to believe we could all to go our parents with these problems. But let me tell you what they don't want. They don't want to give incest predators any rights whatsoever. They would want to make an exception in this bill for rape victims so that if you are a victim of rape and you were too scared to tell your parents, you could go to your grandmother, but not under this bill. A victim of rape, you are too scared to tell your parents because of the circumstances—maybe it was date rape, maybe you just can't explain it. Maybe you are frightened to death. You go to your grandma. She could be sued by the parents and she could be put in jail by the Federal Government. Send your grandma to jail. That is what we are doing here today. Why? Because she loved her granddaughter, because she was there for her granddaughter, and because by stepping in, she may have really saved a tragedy from occurring.

I don't believe the American people want us to be this radical. I think they would have wanted us to do more exceptions to this bill. Seventy percent of the American people oppose abortion laws that put people in jail. I don't believe Americans think that stopping an abortion is worth causing a teen a lifetime of paralysis, infertility, or worse. This bill, if it does get signed into law, and I say it will, and unless it is overturned by the courts, which I think it might be, but if it isn't, it basically will put these young women in a situation where they feel the world is closing in on them. That is not right.

I will close my debate and urge a ''yes'' vote on the Boxer-Ensign amendment that will go part way toward solving the predator incest issue. Then I would urge a ''no'' vote on the underlying bill because of all the problems it creates that we have not been able to address.

I thank the staffs on both sides. We have had a long and difficult day, emotional issues for us all. Yet we have handled it in such a way that I am hopeful that momentarily we will have a unanimous consent request to resolve the procedures governing the rest of the evening.

I yield back my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll. Mr. ENSIGN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I ask unanimous consent that Senator BOXER be recognized in order to offer an amendment; provided further that there be 5 minutes for Senator BOXER and——

Mrs. BOXER. I only need 30 seconds.

Mr. ENSIGN. That we have 1 minute for Senator BOXER, 1 minute for Senator ENSIGN, and following that time, the Senate proceed to a vote in relation to the Boxer amendment. I further ask that following that vote, the bill be read a third time and the Senate proceed to a vote on passage of the bill with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4694

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. ENSIGN, proposes an amendment numbered 4694.

Mrs. BOXER. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To punish parents who have committed incest)

On page 4, line 5, strike the period and insert '', unless the parent has committed an

act of incest with the minor subject to subsection (a).''.

On page 5, after line 12 insert the following:

''§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

''Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both.''

Mrs. BOXER. I thank Senator ENSIGN. I had an amendment to solve this incest predator problem. He came to me almost halfway. We didn't quite get there, but it is a start. Again, for the benefit of my colleagues, two out of five provisions I wanted are in this amendment. This amendment stops a father who has raped his daughter from suing the trusted adult who helped his daughter end the resulting pregnancy, and it stops a father who has raped his daughter or any other family member who has committed incest against a minor from transporting her across State lines. This is an improvement. The reason we want to have a vote on it is because we hope it is a strong statement going into the conference on this bill. Again, we still need to fix many more provisions of this bill.

I believe, at the end of the day, it doesn't make our teenagers any safer. It will make them fearful. It will make them feel alone. I think the bill is unconstitutional. I hope we have some ''no'' votes to send a message that this bill needs a lot more work.

I thank Senator ENSIGN and his staff and my staff. It has been a tough day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, to wrap up, I encourage a ''yes'' vote on the Boxer-Ensign amendment.

I thank my staff and Senator BOXER's staff and particularly name Pam Thiessen and Alexis Bayer on my staff for the great work they have done on this bill and Chris Jaarda for some of the number crunching he did on the bill as well.

I hope we get a strong bipartisan vote on final passage. To alert our Members, these will be two votes, and then we will be completely done with this bill.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. ENSIGN. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Without objection, the yeas and nays may be requested on final passage.

Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4694.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. COBURN).

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 215 Ex.]

YEAS—98

Akaka	Domenici	McConnell
Alexander	Dorgan	Menendez
Allard	Durbin	Mikulski
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Frist	Nelson (NE)
Biden	Graham	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brownback	Harkin	Roberts
Bunning	Hatch	Rockefeller
Burns	Hutchison	Salazar
Burr	Inhofe	Santorum
Byrd	Inouye	Sarbanes
Cantwell	Isakson	Schumer
Carper	Jeffords	Sessions
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Cochran	Kohl	Specter
Coleman	Kyl	Stabenow
Collins	Landrieu	Stevens
Conrad	Lautenberg	Sununu
Cornyn	Leahy	Talent
Craig	Levin	Thomas
Crapo	Lieberman	Thune
Dayton	Lincoln	Vitter
DeMint	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden
Dole	McCain	

NOT VOTING—2

Coburn Feinstein

The amendment (No. 4694) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 216 Ex.]

YEAS—65

Alexander	Burr	Craig
Allard	Byrd	Crapo
Allen	Carper	DeMint
Bayh	Chambliss	DeWine
Bennett	Coburn	Dole
Bond	Cochran	Domenici
Brownback	Coleman	Dorgan
Bunning	Conrad	Ensign
Burns	Cornyn	Enzi
Frist	Landrieu	Santorum
Graham	Lott	Sessions
Grassley	Lugar	Shelby
Gregg	Martinez	Smith
Hagel	McCain	Stevens
Hatch	McConnell	Sununu
Hutchison	Murkowski	Talent
Inhofe	Nelson (FL)	Thomas
Inouye	Nelson (NE)	Thune
Isakson	Pryor	Vitter
Johnson	Reid	Voinovich
Kohl	Roberts	Warner
Kyl	Salazar	

NAYS—34

Akaka	Feingold	Murray
Baucus	Harkin	Obama
Biden	Jeffords	Reed
Bingaman	Kennedy	Rockefeller
Boxer	Kerry	Sarbanes
Cantwell	Lautenberg	Schumer
Chafee	Leahy	Snowe
Clinton	Levin	Specter
Collins	Lieberman	Stabenow
Dayton	Lincoln	Wyden
Dodd	Menendez	
Durbin	Mikulski	

NOT VOTING—1

Feinstein

The bill (S. 403), as amended, was passed, as follows:

S. 403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Custody Protection Act''.

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

''CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

''Sec.

''2431. Transportation of minors in circumvention of certain laws relating to abortion.

''§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

''(a) OFFENSE.—

''(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

''(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the minor, in a State other than the State where the minor resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

''(b) EXCEPTIONS.—

''(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

''(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the minor or other compelling facts, that before the minor obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides.

''(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action, unless the parent has committed an act of incest with the minor subject to subsection (a).

''(e) DEFINITIONS.—For the purposes of this section—

''(1) a 'law requiring parental involvement in a minor's abortion decision' means a law—

''(A) requiring, before an abortion is performed on a minor, either—

''(i) the notification to, or consent of, a parent of that minor; or

''(ii) proceedings in a State court; and

''(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

''(2) the term 'parent' means—

''(A) a parent or guardian;

''(B) a legal custodian; or

''(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

''(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

''(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.

''§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

''Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

''117A. Transportation of minors in circumvention of certain laws relating to abortion ..... 2431''.

Mr. FRIST. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I congratulate Chairman ENSIGN for managing this bill, an important bill that we have passed and that the House has passed, and now it is time for us to go to conference. I thank leadership and the managers on both sides because we were able to address a very important issue and had appropriate amendments under an agreement that was reached, and conclusion was passage as we just heard by 65 to 34 on this bill.

With regard to that, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 748, the House companion measure; provided that all after the enacting clause be stricken and the text of S. 403, as amended, if amended, be inserted in lieu thereof; the bill then be read a third time and passed, and the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees with a ratio of 7 to 5.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, on behalf of myself and other Senators, I will object to the appointment of conferees at this point. This is an issue which has been debated for a short time here on the floor and never went through the Senate Judiciary Committee for consideration. It is our belief that at this point in the session asking for a conference committee is premature.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, the objection is heard. And I will say that I am disappointed. This bill passed the House of Representatives on April 17, 2005, and just passed this body 65 to 34 expressing the will of the Senate. Routinely, we would go to conference with the House and the Senate bill and move forward. I understand that objection is made. I am very disappointed that is the case. I hope we can get to conference just as soon as possible. I do hope that the objection we heard tonight does not represent obstruction in taking this bill to conference, because that would be the normal course. But we will address this in the future.

Again, I am disappointed that we are being stopped from going to conference tonight.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIME MINISTER MALIKI'S VISIT

Mr. KENNEDY. Mr. President, Iraq Prime Minister Maliki's visit to the United States comes at an important time. All Americans want Iraq's new government to succeed. The principal measure of success will be whether the tide of violence recedes and full-scale civil war is avoided. But for that to happen, the new government must deal quickly, decisively, and effectively with the principal threat to stability—the deadly influence of the militias—especially in Baghdad.

It is time for the new government to move beyond vagaries and develop a viable strategy to deal with the militias and prevent Iraq from descending into full-scale civil war. He needs to begin implementing a credible plan to disarm, demobilize, and reintegrate the militias into the security forces. He must obtain a real commitment from the political parties to assist in disbanding and disarming the militias.

As the new violence in Lebanon demonstrates, political parties cannot govern with one hand and terrorize civilians with militias with the other hand. It did not work with Hezbollah in Lebanon, it cannot work with Hamas, and it will not work in Iraq.

Militias are the engines of civil war, and there is no role for them in a legitimately functioning government of Iraq. Iraq's future and the lives of our troops are close to the precipice of a new disaster. The timebomb of full-scale civil war is ticking, and our most urgent priority is to defuse it.

America, too, must be honest about the situation in Iraq. President Bush, the Vice President, and Secretary Rumsfeld continue to deny that Iraq is in a civil war. But the increasing sectarian violence, the ruthless death squads, and the increasingly powerful role of the privately armed militias tell a very different story.

We cannot ignore this major danger. President Bush needs to consider the cold, hard facts and prepare a strategy to protect our troops who are at risk of getting caught in the middle of an unwinnable sectarian civil war. Such planning is not an admission of defeat; it is responsible and necessary to protect the lives of our men and women in Iraq who are serving with great courage under enormously difficult circumstances.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 14, 1995, in Atlanta, GA, Quincy Taylor, a high school student, was found dead behind a convenience store from gunshot wounds to the chest. Taylor frequented and sometimes worked at a popular gay bar known for featuring cross-dressing entertainment. According to police, the killer knew the victim and was motivated solely by his sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend